

# SOCIAL PROBLEMS AND SOCIAL POLICY

FORD








AMERICAN FOUNDATION  
FOR THE BLIND INC.









Digitized by the Internet Archive  
in 2010 with funding from  
Lyrisis Members and Sloan Foundation







## SELECTIONS AND DOCUMENTS IN ECONOMICS

### *SELECTED READINGS IN ECONOMICS*

By Charles J. Bullock, Ph. D., Professor of Economics, Harvard University

### *SELECTED READINGS IN PUBLIC FINANCE (Third Edition)*

By Charles J. Bullock, Ph. D., Professor of Economics, Harvard University

### *ECONOMIC HISTORY OF THE UNITED STATES. 1765-1860*

By Guy Stevens Callendar, late Professor of Political Economy,  
Yale University

### *SOCIOLOGY AND SOCIAL PROGRESS*

By Thomas N. Carver, Ph. D., Professor of Political Economy,  
Harvard University

### *TRADE UNIONISM AND LABOR PROBLEMS (Second Series)*

By John R. Commons, Professor of Political Economy, University of Wisconsin

### *SOCIAL PROBLEMS AND SOCIAL POLICY*

By James Ford, Ph. D., Associate Professor of Social Ethics,  
Harvard University

### *RAILWAY PROBLEMS (Revised Edition)*

By William Z. Ripley, Ph. D., Professor of Political Economy,  
Harvard University

### *TRUSTS, POOLS AND CORPORATIONS (Revised Edition)*

By William Z. Ripley, Ph. D., Professor of Political Economy,  
Harvard University

### *SELECTED READINGS IN INTERNATIONAL TRADE AND TARIFF PROBLEMS*

By Frank W. Taussig, Henry Lee Professor of Economics, Harvard University

### *READINGS IN SOCIAL PROBLEMS*

By Albert Benedict Wolfe, Professor of Economics, Ohio State University

### *SELECTED READINGS IN MUNICIPAL PROBLEMS*

By Joseph Wright, Superintendent of the Library for Municipal Research,  
Harvard University



# SOCIAL PROBLEMS AND SOCIAL POLICY

PRINCIPLES UNDERLYING TREATMENT  
AND PREVENTION OF POVERTY, DEFECTIVENESS,  
AND CRIMINALITY

EDITED WITH AN INTRODUCTION

BY

JAMES FORD, PH.D.

ASSOCIATE PROFESSOR OF SOCIAL ETHICS IN HARVARD UNIVERSITY



GINN AND COMPANY

BOSTON • NEW YORK • CHICAGO • LONDON  
ATLANTA • DALLAS • COLUMBUS • SAN FRANCISCO

COPYRIGHT, 1923, BY JAMES FORD

ALL RIGHTS RESERVED

925.6

HM 66

F753

cop. one



**The Athenæum Press**  
GINN AND COMPANY · PRO-  
PRIETORS · BOSTON · U.S.A.



## PREFACE

The books and articles that are most valuable in the field of Social Problems and Social Policy are either monographs based upon intensive study of a narrowly delimited field or secondary textbooks in one or another branch of social theory or of social practice. Some authors deal ably with social purpose (they may be moralists, sociologists, political scientists, or others) but ordinarily they fail to show us by what concrete programs social purpose is to be realized. Others submit admirable analyses of special social problems but fail to show by what criteria existing conditions and practices are to be measured. In this volume the editor has endeavored to bring together the best of contemporary ethical theory and the best of contemporary practice.

To frame social policy competently we should determine with some precision both what we should strive to accomplish and how we should achieve our purpose—that is, both aims and means. Part I of this book borrows its statements of social purpose and social criteria from various contemporary schools of ethics. Part II comprises statements of social method drawn from statistical science, pedagogy, psychology, economics, philanthropy, sociology, law, political science, and biology. Parts III, IV, and V apply the principles outlined in Parts I and II to the problems of defectiveness, poverty, and crime.

The arrangement of the book is logical but the material will not be used in this order to greatest advantage with all classes. In an introductory course or with immature students it may be better to start with Part III or Part IV and after a month or more of discussion of concrete problems begin the study of fundamental principles outlined in Part I.

The editor has found it useful in such a course to treat defectives before the dependent and delinquent classes and to follow the study of defectives with the study of eugenics or the social control of heredity. The analysis of social purpose and of social control may be deferred to the middle or end of a course in which the discussion method is not used. But in advanced classes and classes where there is free

discussion social purpose will inevitably be considered from the beginning and reconsidered from time to time throughout the course.

The pedagogical purpose of this volume is best accomplished where each article is closely analyzed by the student to discover the principles presented and the argument involved. Any student will get as much out of study as he puts into it. Mental training from a book of this sort comes primarily from challenging each statement and from considering alternatives. Destructive criticism of existing measures (which is easy) should be followed by framing substitute constructive measures or policies (which is difficult). Throughout both processes the students should be required to support all opinions with reasons.

There is value in arranging to have the student or reader contrast the forms of organization, agencies, measures, and laws which are outlined here with those of his own state—reasoning out their relative merits, determining in what way the local laws or agencies should be changed and how such change should be accomplished.

The purpose of this book is missed if students are required to memorize the detail which it contains. It is designed to outline principles and to suggest the measures by which the moral aims of society are being or may be progressively achieved. Its purpose is not dogmatism, but stimulation and education. All its statements should be analyzed and challenged. Local applications of these principles and measures will help to reveal their strengths or weaknesses—and also the strengths or weaknesses of the existing local practice.

It is perhaps unnecessary to say that the editor does not necessarily agree with the argument of all the articles incorporated. Some inconsistencies will be noted by the careful reader. But the editor considers that all viewpoints presented here should be taken into consideration and that every statement may wisely be challenged by the student. Where possible the student should be encouraged to examine and read further in the original volumes from which these selections have been made.

Grateful acknowledgment is here made to the authors whose writings are included in this volume and to the publishers named under the first citation from each book or article for their coöperation and for their courtesy in permitting the use of copyrighted material.



# CONTENTS

	PAGE
INTRODUCTION. By James Ford . . . . .	I
PART I. SOCIAL PURPOSE	
CHAPTER	
I. ETHICS AND SOCIAL POLICY	
1. The Approach to the Social Question. By Francis Greenwood Peabody . . . . .	8
2. The Scope of Ethics. By John H. Muirhead . . . . .	10
II. SOCIAL PURPOSE	
3. The End as Common Good. By John H. Muirhead . . . . .	20
4. The Moral Good as the Fulfilment of an Organization of Interests. By Ralph Barton Perry . . . . .	30
5. Happiness and Social Ends. By John Dewey and James H. Tufts . . . . .	35
6. Egoism and Altruism. By John Dewey and James H. Tufts . . . . .	41
7. The Good as Self-Realization. By John Dewey and James H. Tufts . . . . .	53
III. SOCIAL VIRTUES	
8. Justice and Benevolence. By James Seth . . . . .	59
9. Justice. By Bernard Bosanquet . . . . .	67
10. True and False Idealism. By Bernard Bosanquet . . . . .	79
11. Rights, Duties, and the Problem of Expediency. By George Edward Moore . . . . .	86
IV. THE ETHICS OF THE STATE	
12. The Ethical Basis and Function of the State. By James Seth . . . . .	92
13. The Ethics of the Family versus the Ethics of the State. By Herbert Spencer . . . . .	103
14. Society and the Individual. By Roscoe Pound . . . . .	105
15. The Individual and the State. By Leonard T. Hobhouse . . . . .	111
16. Political Rights and Obligations. By John Dewey and James H. Tufts . . . . .	125
17. The Moral Criterion of Political Activity. By John Dewey and James H. Tufts . . . . .	132
V. SOCIAL PROGRESS	
18. The Meaning of Progress. By Leonard T. Hobhouse . . . . .	135
19. Progress in Evolution. By J. Arthur Thomson . . . . .	142

## PART II. SOCIAL METHOD

CHAPTER	PAGE
VI. CRITICISM OF CONTEMPORARY METHOD	
20. What Social Classes Owe to Each Other. By William Graham Sumner . . . . .	151
21. Disappointed Methods of Reform. By James Harvey Robinson . . . . .	164
VII. TECHNIQUE OF SOCIAL INVESTIGATION	
22. The General Method of Statistical Investigation. By Arthur L. Bowley . . . . .	173
23. The Technique and Criteria of Social Surveys. By Carl C. Taylor . . . . .	176
VIII. EDUCATION AND CHARACTER BUILDING	
24. Education. By William Ernest Hocking . . . . .	186
25. Equality of Opportunity. By John Dewey and James H. Tufts . . . . .	203
26. Health as the Basis of Character. By John MacCunn . . . . .	205
27. The Training of Habit. By William James . . . . .	209
IX. THE RÔLE OF PRIVATE ACTIVITY	
28. Constructive Democracy: the Non-Legislative Program. By Thomas Nixon Carver . . . . .	217
29. Social Work. By Robert A. Woods . . . . .	229
30. Constructive and Preventive Philanthropy. By Joseph Lee . . . . .	236
X. SOCIAL CONTROL	
31. Social Self-Control. By Franklin H. Giddings . . . . .	240
32. The Means and Criteria of Social Control. By Edward A. Ross . . . . .	248
33. Intervention of the State. By B. Kirkman Gray . . . . .	251
XI. SOCIAL LEGISLATION	
34. Historic Changes of Policy and the Modern Concept of Social Legislation. By Ernst Freund . . . . .	255
35. The Meaning of Principle in Legislation. By Ernst Freund . . . . .	270
36. Constructive Factors. By Ernst Freund . . . . .	281
37. Limitations on Legislative Activity. By Jeremiah W. Jenks . . . . .	290
XII. SOCIAL CONTROL OF HEREDITY	
38. Fundamental Facts of Heredity. By J. Arthur Thomson . . . . .	299
39. The Mendelian Theory. By Aaron J. Rosanoff and Florence I. Orr . . . . .	302
40. Mendelian Principles and Human Inheritance. By Edwin G. Conklin . . . . .	305
41. Can Human Evolution be Controlled? By Edwin G. Conklin . . . . .	309
42. The Problem of Practical Eugenics. By Karl Pearson . . . . .	328
43. The Value and Limitations of Eugenics. By Leonard T. Hobhouse . . . . .	332
44. Social Ideals: Eugenics, Eutechnics, Eutopias. By J. Arthur Thomson . . . . .	349

PART III. THE PROBLEM OF DEFECTIVENESS

CHAPTER	PAGE
XIII. MENTAL TESTS AND THE VARIATIONS IN MENTAL EQUIPMENT	
45. The Nature of Mental Examinations. By Herman M. Adler	353
46. Individual Variations in Mental Equipment. By Augusta F. Bronner . . . . .	358
47. On the Use of the Term "Feeble-Minded." By Edgar A. Doll	370
XIV. HEREDITY AND DEGENERACY	
48. The Jukes in 1915. By Arthur H. Estabrook . . . . .	376
XV. MENTAL DEFICIENCY	
49. The Feeble-Minded in Institutions, 1910. By the United States Bureau of the Census . . . . .	391
50. Education of the Feeble-Minded. By Walter E. Fernald . . . . .	393
51. A State Program for the Care of the Mentally Defective. By Walter E. Fernald . . . . .	408
XVI. MENTAL DISORDER OR "INSANITY"	
52. Serious Cases of Mental Disorder or So-Called "Insanity." By Harry C. Solomon . . . . .	417
53. Mental Disorders Reinforcing or Simulating Physical Invalidism. By Abraham Myerson . . . . .	420
54. The Insane in Institutions. By the United States Bureau of the Census . . . . .	425
55. A Study of Heredity in Insanity in the Light of the Mendelian Theory. By Aaron J. Rosanoff and Florence I. Orr	428
56. The Causes of Insanity. By Chester Lee Carlisle . . . . .	433
57. Epilepsy. By Everett Flood . . . . .	435
58. Purposes and Advantages of the Colony System. By William E. Sprattling . . . . .	438
XVII. BLINDNESS AND DEAF-MUTISM	
59. Extent, Causes, and Conditions of Blindness. By the United States Bureau of the Census . . . . .	440
60. The Prevention of Blindness. By the National Committee for the Prevention of Blindness . . . . .	446
61. Extent, Causes, and Conditions of Deaf-Mutism. By the United States Bureau of the Census . . . . .	452
62. Heredity of Deaf-Mutism. By Edward Allen Fay . . . . .	460
63. Education of the Deaf and the Blind. By Edward E. Allen	467
XVIII. DEFORMITY: CRIPPLED CHILDREN AND ADULTS	
64. Extent, Causes, and Conditions of Deformity. By Edith Reeves . . . . .	486
65. Treatment and After-Care for Crippled Children. By Edith Reeves . . . . .	491



CHAPTER	PAGE
66. Survey of the Cripples of Cleveland. By Lucy Wright and Amy M. Hamburger . . . . .	494
67. Economic Consequences of Physical Disability. By John C. Faries . . . . .	497
68. Policy in Dealing with Disabled Civilians. By Douglas C. McMurtrie . . . . .	501
69. Rehabilitation of the Injured Worker. By the Massachusetts Board of Education . . . . .	508

#### PART IV. THE PROBLEM OF POVERTY

##### XIX. SURVEYS OF THE CONDITIONS AND CAUSES OF POVERTY

70. Poverty in East London. By Charles Booth . . . . .	512
71. Poverty—A Study of Town Life—in York, England. By B. Seeböhm Rowntree . . . . .	531
72. Conditions of Life and Labor among the Wage-Earners of Pittsburgh. By Edward T. Devine . . . . .	548

##### XX. STANDARDS OF LIVING AND WAGE-EARNERS' BUDGETS

73. The Standard of Life. By Alfred Marshall . . . . .	550
74. The Standard of Living and Engel's Law. By Frank Hatch Streightoff . . . . .	554
75. Pioneer Studies of Family Budgets. By Robert Coit Chapin . . . . .	559
76. Minimum of Subsistence and Minimum Comfort Budget. By the Bureau of Applied Economics . . . . .	562
77. Wages in Iron and Steel and Other Industries. By the Bureau of Applied Economics . . . . .	571

##### XXI. ANALYSIS OF THE CAUSES OF DEPENDENCY

78. The Statistical Study of Causes of Destitution. By Gustav Kleene . . . . .	574
79. Poverty and its Vicious Circles. By Jamieson B. Hurry . . . . .	581

##### XXII. PREVENTION OF POVERTY—ECONOMIC FACTORS

80. Income in the United States. By Henry R. Seager . . . . .	592
81. Needless Waste and its Elimination. By The Federated American Engineering Societies . . . . .	594
82. Unemployment. By Henry R. Seager . . . . .	619
83. Standard Recommendations for the Relief and Prevention of Unemployment. By the American Association for Labor Legislation . . . . .	627
84. Redistribution of Human Talent and of Labor. By Thomas Nixon Carver . . . . .	629

# CONTENTS

xi

## CHAPTER

PAGE

### XXIII. PRINCIPLES OF PUBLIC RELIEF OF THE POOR IN ENGLAND

85. Sketch of the Evolution of the Poor Law. By Clement R. Attlee . . . . . 641
86. Contrast of the Principles of 1834 and of 1907. By Sidney and Beatrice Webb . . . . . 644
87. Report of the Poor Law Commission and the Recommendations of the Minority. By Sidney and Beatrice Webb . . . . . 651

### XXIV. PUBLIC RELIEF OF THE POOR IN THE UNITED STATES

88. The Aftermath of Public Outdoor Relief in Brooklyn. By Thomas J. Riley . . . . . 658
89. The Administrative Basis of Public Outdoor Relief. By Porter R. Lee . . . . . 662
90. Almshouses: Existing Conditions and Needed Reforms. By Murray A. Auerbach . . . . . 671
91. Local versus Centralized Administration. By Robert W. Kelso . . . . . 678

### XXV. RELATION BETWEEN PUBLIC AND PRIVATE AGENCIES

92. The Relation between Philanthropy and State or Municipal Action. By Sidney Webb . . . . . 681
93. The Elberfeld System. By Charles Richmond Henderson . . . . . 694
94. State Money and Privately Managed Charities. By Alexander Fleisher . . . . . 699

### XXVI. SOCIAL CASE WORK

95. Social Work with Families and Individuals. By Porter R. Lee . . . . . 707
96. Social Case Work as Personality Development. By Mary E. Richmond . . . . . 715
97. Example of Case Work in which "Relief" is not Involved. By the Editors of "The Family" . . . . . 719
98. Individualization. By Stockton Raymond . . . . . 722

### XXVII. SPECIAL PROBLEMS AND CONTEMPORARY POLICY FOR CONTROL

99. Malnutrition among School Children. By the New York Academy of Medicine . . . . . 728
100. Desertion—its Treatment and Prevention. By Earle Edward Eubank . . . . . 739
101. Mothers' Pension Legislation in the United States. By the Children's Bureau . . . . . 744
102. Federal Aid for the Protection of Maternity and Infancy. By Grace Abbott . . . . . 748

CHAPTER	PAGE
<b>XXVIII. CHILD PROTECTION</b>	
103. Child-Placing. By W. H. Slingerland . . . . .	755
104. Minimum Standards of Child Welfare. By the Children's Bureau . . . . .	764
<b>XXIX. FINANCIAL FEDERATIONS AND COUNCILS OF SOCIAL AGENCIES</b>	
105. Federation of Social Agencies. By William J. Norton .	769
106. History of the Federation and Council in Cleveland. By Sherman C. Kingsley . . . . .	780
<b>XXX. PUBLIC WELFARE ADMINISTRATION</b>	
107. Summary of the Present State Systems for the Organization and Administration of Public Welfare. By Sophonisba P. Breckinridge . . . . .	787
<b>PART V. THE PROBLEM OF CRIMINALITY</b>	
<b>XXXI. DEFINITION AND CAUSES OF CRIME</b>	
108. What is Crime? By Frederick Howard Wines . . . .	803
109. Anthropological Theory of Crime: Atavism and Epilepsy. By Cesare Lombroso . . . . .	805
110. Study of the English Convict: A Criticism of Lombroso. By Charles Goring . . . . .	808
111. Physical and Social Factors in the Production of Crime. By Richmond Mayo-Smith . . . . .	815
112. Immigration and Crime. By the United States Immigration Commission . . . . .	822
113. Mental Disease and Delinquency. By Victor V. Anderson	826
<b>XXXII. INVESTIGATION AND RECORDS OF CRIME AND CRIMINALS</b>	
114. The Improvement of Criminal Statistics in the United States. By Louis N. Robinson . . . . .	834
115. Systems of Identification of Criminals. By Raymond B. Fosdick . . . . .	838
116. Aims and Methods of the Survey of Criminal Justice in Cleveland. By Felix Frankfurter . . . . .	841
<b>XXXIII. THE JUSTIFICATION OF PUNISHMENT</b>	
117. Theories of Punishment. By Heinrich Oppenheimer .	846
<b>XXXIV. PROBLEMS OF LAW ENFORCEMENT AND CRIMINAL PROCEDURE</b>	
118. Delays and Defects in the Enforcement of Law in this Country. By William H. Taft . . . . .	867
119. Criminal Responsibility. By Henry W. Ballantine .	872
120. Treatment of Persons Awaiting Court Action. By Hastings H. Hart . . . . .	879



# CONTENTS

xiii

CHAPTER	PAGE
<b>XXXV. CRIMINAL JUSTICE AND THE AMERICAN CITY</b>	
121. The Nature of the Problem. By Roscoe Pound . . . . .	886
122. Inherent Difficulties. By Roscoe Pound . . . . .	894
123. General Difficulties. By Roscoe Pound . . . . .	911
124. American Difficulties. By Roscoe Pound . . . . .	917
<b>XXXVI. PENAL AND REFORMATORY INSTITUTIONS</b>	
125. The Origins of the Modern Prison. By Harry Elmer Barnes . . . . .	942
126. Evils of the Present Prison System. By Thomas Mott Osborne . . . . .	950
127. Systems of Convict Labor. By the United States Commissioner of Labor . . . . .	956
<b>XXXVII. REFORMATORY METHODS</b>	
128. The American Reformatory Prison System. By Z. B. Brockway . . . . .	962
129. The Mutual Welfare League. By Thomas Mott Osborne . . . . .	965
<b>XXXVIII. PROBATION AND PAROLE</b>	
130. Aims, Standards, and Methods of Probation and Parole. By Edith N. Burleigh . . . . .	981
<b>XXXIX. JUVENILE COURTS AND PROBATION</b>	
131. The Evolution of the Juvenile Court. By Katherine F. Lenroot . . . . .	991
132. Scientific Study of Juvenile Delinquents. By William Healy . . . . .	1003
<b>INDEX . . . . .</b>	<b>1019</b>



# SOCIAL PROBLEMS AND SOCIAL POLICY

## INTRODUCTION

*Social science and sociology.* The field of study within which measures for human betterment fall is ordinarily termed Social Science. The term "science" may be used to cover any body of systematized knowledge from which natural laws may be deduced. There are actually many so-called "social sciences,"—such as economics, history, government, anthropology, education, law,—which in varying degree are entitled to the use of the term through their discovery of the natural laws which underlie the specific forms of human relationships with which they deal. It is the function of sociology to synthesize and interpret their findings—to serve as the comprehensive descriptive science of social phenomena. Sociology, however, is concerned with human relations and with social purpose *merely* as social phenomena, from which it may deduce the natural laws underlying human conduct.<sup>1</sup>

*Social ethics and sociology.* The field of this volume will by some be termed Practical Sociology or Applied Sociology. It would better be designated as Applied Social Ethics or Social Policy. For Ethics,<sup>2</sup> like Logic and Æsthetics, is a normative branch of human study. It is its function to determine what constitutes goodness. It establishes or describes the norms or standards by which the quality of individual or social conduct may be judged, precisely as Logic establishes or describes the norms of truth and Æsthetics the norms of beauty. Descriptive sciences like Sociology or Economics deal with what James

<sup>1</sup> Compare with Thomas N. Carver, *Sociology and Social Progress*, Introduction and Part I; Charles Horton Cooley, *Social Process*, chap. xxxiii; Charles A. Ellwood, *Sociology in its Psychological Aspects*, chaps. i–vi; Franklin H. Giddings, *Principles of Sociology*, Bk. I; Albion W. Small, *The Meaning of Social Science*; J. H. W. Stuckenberg, *Sociology*, chaps. i, ii, and xxiii; Lester F. Ward, *Outlines of Sociology*, Part I.

<sup>2</sup> See Titles 2 and 3 of this volume.



Seth calls "is-judgments." Normative sciences deal with "ought-judgments." The synthetic *normative* field of social study may therefore properly be termed Social Ethics. The study of the adaptation of social method to the achievement of moral purpose may be termed Applied Social Ethics.<sup>1</sup>

*Social measures and social purpose.* Every social measure should be framed with reference to general social policy, and social policy in turn should be framed with reference to a clearly conceived and humanly adequate social purpose. Measures, therefore, for the care of the poor or the prevention of poverty, for the reform of the criminal or the prevention of crime, for the elimination of bad housing or of disease, for the constructive use of leisure time, the elimination of war or the social control of heredity, must involve some ultimate ideal of human perfection. They should involve as well some proximate ideal of immediately achievable betterment which would lead humanity on the way to the fulfillment of its ultimate purpose.<sup>2</sup>

*Framing social measures.* The achievement of social purpose is dependent upon the utilization of an adequate social method<sup>3</sup> by which aims both proximate and ultimate can be attained. There are three usual steps in the framing of social measures: the first is the discovery and statement of the conditions; the second is the discovery

<sup>1</sup>The lines between the Social Sciences are not sharply drawn. Sociology is often defined to include Social Ethics. When Economics deals with the concept of justice, and when Political Science and Law deal with human rights they are—quite properly—invading the field of Ethics. Contributions to social theory and to social practice are frequently made by just such encroachments upon neighboring fields of thought. Nevertheless, it is important that a group of specialists should work at the synthesis of the findings of all antecedent and special Social Sciences in order to determine how their accumulated knowledge may be coördinated and applied for the general welfare. Their field is Applied Social Ethics or Social Politics.

<sup>2</sup>It is the province of Ethical Theory to determine what should constitute individual or social purpose. Some of the best of contemporary statements of the aim of the moral life are submitted in Part I of this volume.

<sup>3</sup>Part II of this volume submits characteristic criticism of contemporary social method in Chapter VI, the technique of social study briefly in Chapter VII, methods of character building in Chapter VIII, the functions of private agencies in Chapter IX, the methods of social control in Chapter X, the scope, methods, and limitations of social legislation in Chapter XI. The application of the principles of social control to the problem of heredity is shown in Chapter XII rather than in Part III because the problem of heredity is broader than the problem of defectiveness.

and statement of needs, which involves the formulation of standards or criteria; and the third is the formulation and application of a technique to solve the problem—that is, to meet conditions, fulfill the needs, and attain the standard set. The first step may be a broad survey or a narrow bit of special research, depending upon the nature and scope of the problem. The second step is the application of social purpose to the problem, expressing proximate purpose in the form of attainable standards. The third step includes the ascertainment of all the agencies, devices,<sup>1</sup> and forces which are appropriate to the solution of the problem.

*Survey of conditions and needs.* For example, the problem may be one of poverty. To cope with the problem it is necessary first to discover and state with precision the existing conditions.<sup>2</sup> Next it is necessary to establish the standards with reference to which the conditions must be judged. Poverty is gauged with reference to a standard of living. The proximate standard may be the "subsistence minimum." The ultimate standard may be a "welfare minimum"<sup>3</sup>—an income sufficient to supply each member of the household not only with necessities but also with such education and recreation as will make it possible for each member of the family to develop his latent capacities and be in the highest degree productive of physical and moral values.

Similarly defectiveness is gauged with reference to standards of normality or of social effectiveness.<sup>4</sup> Criminality is gauged by standards of character or by standards of conformity to law.

*Control of causes.* After conditions and needs have been thus ascertained all effective social policy will proceed to the ascertainment of causes.<sup>5</sup> Evil conditions can often be overcome by preventing their causes from operating, otherwise evil is to be overcome by strategy,

<sup>1</sup> Compare, for example, such devices as mental tests (Chapter XIII), social case work (Chapter XXVI), identification of criminals (Chapter XXXII), punishment (Chapter XXXIII), as well as education, patronage, restriction, coöperation, etc., discussed in the following pages.

<sup>2</sup> As is done by Booth and Rowntree in Chapter XIX.

<sup>3</sup> Outlined in Chapter XX; also in Chapter XXVIII, Title 104.

<sup>4</sup> See Chapter XIII. Various criteria are used in this volume, so the reader may profitably examine each article carefully to ascertain what standards are used and why.

<sup>5</sup> Causes of defectiveness are treated in each chapter of Part III; causes of poverty, in Chapters XIX–XXII; causes of criminality, in Chapter XXXI.

circumvention, or substitution. But in any case the effectiveness of the program is dependent upon recognition of the precise nature of the evil in question.<sup>1</sup> Likewise the causes of conditions that are good should be known in order that by the cultivation of such causal factors the good may be more rapidly achieved.

*Forces and agencies.* The survey should also take into consideration the forces which are available to meet the conditions as found.<sup>2</sup> The forces may be individuals, groups, institutions, or agencies. The relative merits and availability of each must be considered. The agencies are conveniently classified as commercial, philanthropic, co-operative, and governmental.

*Commercial agencies* are primarily interested in profit and tend to restrict their activities in the field of human service to those forms of service which bring a net financial return to the entrepreneur—the individual or corporation undertaking the enterprise. Commercialized agencies loom large in any program for the improvement of conditions of housing or recreation but are quite incidental factors in coping with problems of poverty,<sup>3</sup> defectiveness, or crime.

*Philanthropic agencies* are primarily interested in service but are not precluded from accepting or seeking a limited dividend upon their philanthropic investment. Religious agencies largely fall within this category, but every community has an ever-increasing group of non-religious or secular agencies to cope with its social problems, general and special. Movements for social betterment are largely initiated by philanthropic agencies; for their major value is in the field of experimentation. They also excel in the subtler and more personal forms of service. The major danger of the philanthropic agency, on the other hand, is its tendency to patronize and to become a vested interest in forms of service where the need of philanthropy is outgrown. Philanthropic agencies are of paramount importance in coping with problems of poverty but have important functions also in the fields of defectiveness, criminality, housing, recreation, education, and labor.<sup>4</sup>

<sup>1</sup> Illustrated in Chapters XV, XVII, XXII, and XXXVII.

<sup>2</sup> See Chapters IX, X, XV, XVIII, Titles 65, 68; Chapters XXV, XXVII, Titles 99, 100; Chapters XXVIII, XXXV–XXXIX.

<sup>3</sup> See especially Chapter XXII, Title 81, for an exception to this rule.

<sup>4</sup> General principles are outlined in Chapter IX by Carver, Woods, and Lee, and elaborated throughout this volume—especially in Chapters XXV and XXVI by Webb, Lee, Richmond, and Raymond.



*Coöperative agencies* are established by groups of men for mutual service. They are voluntary and elastic and presuppose both initiative and self-confidence on the part of their founders. They substitute fraternalism and mutuality for the exploitation of commercial agencies and the almost inevitable patronage of philanthropic agencies. They likewise escape the irksome compulsion, the remoteness, and the over-standardization of public agencies. Their major sphere is in business and in the recreational life of people. Their ultimate field is community organization. At present they can do little directly to cope with problems of poverty, defectiveness, or criminality.<sup>1</sup>

*Governmental agencies* are the manifestations of the public will as expressed through constitutions and the law. To cope with any social problem effectively, one must consider it with reference to the established government of city, county, state, and nation—with reference to the existing charters, constitutions, ordinances, laws, and their interpretation.<sup>2</sup> The utility of government in the process of social amelioration lies primarily in its universality and its power.<sup>3</sup> The major limitations of this agency are its tendencies to over-standardization and to neglect of the individual.<sup>4</sup> Governmental agencies are, however, effective and indispensable in coping with problems of poverty, defectiveness, and criminality precisely as they are in coping with all other human problems. Each social program must, however, consider the relative merits of agencies of all four types and must determine where the sphere of governmental activity should end and where private activity—individual, commercial, philanthropic, or coöperative—should begin.<sup>5</sup>

Social method then begins with a social survey covering (1) conditions, (2) needs, (3) causes, and (4) forces. The survey should

<sup>1</sup> Chapter XXXVII, Title 134, on the "Mutual Welfare League," gives an admirable example of the application of this principle in the treatment of criminality. Unquestionably community councils and similar community agencies when well organized on a democratic basis will increasingly take over and develop functions now characteristic of philanthropic agencies—such as Settlements, the Big Brother Movement, Prisoner's Aid Societies, and Employment Exchanges.

<sup>2</sup> Chapters IV, X, and XI deal with the principles underlying social control and social legislation.

<sup>3</sup> Webb develops this point in Chapter XXV.

<sup>4</sup> Illustrated in the history of public poor relief, Chapters XXIII and XXIV; also in Jenks, Title 37.

<sup>5</sup> Abundantly illustrated in Parts III, IV, and V.

be followed by a diagnosis which should be a statement as precise and compact as possible of the nature of the conditions under examination. The diagnosis should be tentative and should be followed by the making of a plan for treatment and prevention. The plan should be subject to revision as new data come to hand or as unforeseen difficulties appear.

*Education and character-building.* Earlier generations have stressed the salvation of the individual soul as the moral criterion and individual responsibility as the means. The tendency of the past generation has been to stress social welfare as the norm and social responsibility as the means. The colossal developments of philanthropies and of social legislation are, however, revealing the limitations of programs which treat individuals exclusively *en masse*. It is found "that social development is dependent upon individual development and that the individual cannot be reformed by act of Parliament." The importance of education<sup>1</sup> of the individual and of character-building becomes manifest in the best of contemporary social programs, each of which involves individualized case-work<sup>2</sup> and education<sup>3</sup> in addition to group programs and social legislation.

*Social administration.* The program by which the plan is executed should coördinate the activities of the many agencies which may be involved, avoiding overlapping on the one hand and neglect upon the other.<sup>4</sup> It should utilize the services of each where it is most adept. These factors of organization and management, of direction and control, belong to the field of social administration.<sup>5</sup>

*Limitations of applied sciences.* Obviously, all the applied sciences must be limited by the scope and the accuracy of the theories of the antecedent descriptive sciences the data of which they must use. Architecture and Engineering are dependent upon Physics. Medicine is dependent upon Pathology and Physiology. Applied Social Ethics

<sup>1</sup> Hocking, James, and MacCunn in Chapter VIII.

<sup>2</sup> See Richmond and Raymond in Chapter XXVI, and Healy in Chapter XXXIX.

<sup>3</sup> See Fernald in Title 50, Allen in Title 63, and Brockway in Title 133.

<sup>4</sup> See especially Norton and Kingsley in Chapter XXIX.

<sup>5</sup> See Fernald (Title 51), "The National Committee of the Prevention of Blindness" (Title 60), the Federated American Engineering Societies (Title 81), Seager (Title 82), and Chapters XXIII-XXV, XXVII-XXX, XXXV, and XXXVII-XXXIX.

is similarly dependent upon the correctness of Theoretical Ethics, on the one hand, and, on the other hand, upon the scope and accuracy of the findings of Biology, Psychology, Economics, Political Theory, and Pedagogy, and a host of other descriptive social sciences.

*The future of social policy.* If the limitations of the antecedent sciences are serious, the effectiveness and value of their application are consequently limited. The Ethics which establishes or interprets social purpose today is, for example, the product of speculative philosophers. It is probable that during the coming generations Ethics will be wholly rewritten by the development of the case-method or in the terms of Experimental Psychology. Social method will almost inevitably be changed because of modifications and growth of Statistical Theory, Psychiatry, and Economics. The control of heredity will be reorganized in accordance with the findings of Biology. Social legislation will take new form with the more effective interpretation of History and the further development of Jurisprudence and of Political Science.

*Immediate policy necessary.* Meanwhile, men are faced with issues which demand immediate action on their part. Measures must be framed to cope with evil or to promote the good. Something must be done to help the poor, to educate the defective, to reform the criminal, and to prevent poverty, defectiveness, and crime. The program cannot wait for the findings of a new generation of scientists. The best of contemporary theory and practice must therefore in each generation be collated and rendered available for utilization. If this is done with minds open to truth wherever it may lie, and wherever it may lead, humanity cannot go far wrong.



# PART I. SOCIAL PURPOSE

## CHAPTER I

### ETHICS AND SOCIAL POLICY

#### 1. THE APPROACH TO THE SOCIAL QUESTION<sup>1</sup>

Industrial life may be regarded, as a great German economist has said, "either as a system of natural forces or as a system of ethical forces. It is each according to the point of view from which it is studied. . . . On its technical side it is unmoral, but in its connection with spiritual and social forces it is ethical."<sup>2</sup>

Each incident of the Social Question has this twofold character: its outward form and its interior spirit, its mechanism and its motive-power, its economics and its ethics; and until the student penetrates through the first of these aspects to the second, he may altogether fail to understand what is really going on.

The possibilities of the ethical approach are illustrated in a striking manner by the history of economics itself. It is instructive to recall the fact that the three classical discussions which have had the most enduring influence on economic theory are to be found in the writings of teachers who were not primarily economists, but who applied to economic problems the principles which they had already laid down in their ethical treatises.<sup>3</sup> The philosophy of Aristotle was the highest expression of the wisdom of Greece; the revival of Aristotle's teaching by Thomas Aquinas is still an authoritative statement of Catholic economics; and the *Wealth of Nations* of Adam Smith began the modern epoch in economic science. The economics of Thomas Aquinas

<sup>1</sup> By Francis Greenwood Peabody, A.M., D.D., LL.D., Professor Emeritus, in Harvard University. Adapted from *The Approach to the Social Question*, pp. 68-79, 86-92. Copyright, 1909, by The Macmillan Company. Reprinted by permission.

<sup>2</sup> Schmoller, *Grundriss der allgemeinen Volkswirtschaftslehre*, Bd. I, S. 50, 60.

<sup>3</sup> Noted by Ziegler, *Die soziale Frage eine ethische Frage* (1801), S. 35; and, in the case of Adam Smith, dwelt upon by Jodl, *Volkswirtschaftslehre und Ethik*, in v. Holtzendorff's *Zeit- und Streitfragen*, Bd. XIV, Heft 224, S. 4.

forms a section of his teaching on the principles of ethics.<sup>1</sup> He distinguishes between two forms of exchange, one using money for the necessities of life, the other exchanging money or commodities for the sake of gain. "The first form of exchange is praiseworthy, . . . the second may be justly criticized in so far as it serves only the greed of gain." Finally, the *Wealth of Nations*, though described by Pitt as the "best solution of the question connected with the history of commerce or with the systems of political economy,"<sup>2</sup> was the work of a professor of moral philosophy, and made the second part of a system, of which the first part was a *Theory of the Moral Sentiments*. Indeed, it would have much surprised Adam Smith to know that his first treatise would be forgotten, while the second would be remembered as the most important contribution of modern times to economic literature. Historical precedents so notable as these, while they do not eliminate the risk of intemperate or misdirected leadership, may encourage those who find themselves led along the way of ethics towards the interpretation of the Social Question. The end of political science remains, as Aristotle taught, the attainment of good, and the discipline of the Moral Sentiments is, as Adam Smith recognized, preliminary to the securing of the Wealth of Nations.

The place of economic theory in the approach to the Social Question thus becomes plain. It may be indicated in the phrase which one of the greatest of modern philosophers uses to describe the principles of his own work. In the introduction to his *Mikrokosmos* Lotze announces the sublime thesis which his system is designed to represent: "It is to show," he says, "how absolutely universal is the extent, and at the same time how completely subordinate is the part, which mechanism has to fulfill in the structure of the world."<sup>3</sup> Through the entire universe, from its material elements to its spiritual manifestations, according to the teaching of this master, work the invariable processes of mechanism, insuring the stability and continuity of the world; yet through this vast mechanism there is fulfilled a moral purpose, of which history and experience are the instruments and expressions. The same great proposition may be maintained concerning the

<sup>1</sup> *Die Summa Theologica des heiligen Thomas von Aquin* (Regensburg, 1888), Bd. VII, *Die Sittenlehre*, especially Kap. 77, Art. 1-4, S. 471 ff.

<sup>2</sup> Haldane, *Life of Adam Smith* (1887), p. 75.

<sup>3</sup> *Mikrokosmos* (2te Aufl., 1869), S. xv.

modern social world. Its mechanism is that of the economic order, and on the precision and perfection of that mechanism the continuity of social progress depends. Yet this economic mechanism is the instrument of motives which it does not itself supply. Let that machinery be maladjusted, and progress becomes halting, intermittent, or precipitate; let the supply of motive-power fail and the machinery, however well constructed, becomes motionless and dead.

Here are the two besetting faults of modern social service,—the trusting to a machine which has no power, and the trusting to a power which has no brakes. Who shall say whether more mistakes have thus been made by sentiment without science, or by science without sentiment? On the one hand is the peril of sentimentalism, on the other hand is the peril of officialism. On one side is the sin of soft-headedness, and on the other side is the sin of hard-heartedness.

Why is indiscriminate almsgiving a sin? It is because it substitutes ethical emotion for economic law. It imagines itself to be in a world of feeling when in reality it is a world of facts. Sentiment without science in charity degrades the workless into the worthless, and in relieving want breeds mendicancy. What it fancies to be benevolence is at bottom indolence. On the other hand is the not less threatening peril which awaits a science of relief which is not an instrument of moral power. Officialism easily becomes mechanism; institutionalism tends to automatism. How to rescue officialism from its own machinery and direct the mechanics of charity without losing faith or hope,—this is the difficult problem which makes the life of a professional agent of relief a constant struggle to save his own soul from the risks of his hazardous calling. It is easy to be recklessly kind, it is equally easy to be timidly wise; but to be scientifically sympathetic and prudently humane,—that is the complex task of modern philanthropy.

## 2. THE SCOPE OF ETHICS

### *In what sense Ethics differs from the Natural Sciences*<sup>1</sup>

Ethics differs from all the natural sciences in that:

(1) *It is regulative.* Ethics deals with a rule or standard of judg-

<sup>1</sup>Adapted from *The Elements of Ethics* (pp. 26-39), by John H. Muirhead, M.A., LL.D., Professor of Philosophy in the University of Birmingham. Copyright, 1892, by Charles Scribner's Sons, New York.

ment, not with physical events and the causes which determine them. It involves, however, a further distinction which it is of the utmost importance to note.

(2) *It treats man as conscious.* Seeing that ethics deals with judgments consciously passed by man upon himself and others, it rests upon the assumption that man is not merely a part of nature and the blind servant of her purposes, but is *conscious* of being a part, and of being subject to her laws. He not only behaves in a certain way in presence of particular circumstances, as oxygen may be said to "behave" in the presence of hydrogen, but he is conscious of his behaviour in its relation to himself and others. It is on the ground of this consciousness that he passes judgment upon it. Hence any attempt to treat the science of human conduct and character as merely a branch of material science is doomed to failure.<sup>1</sup> The "explanations" in the field of ethics cannot be in terms of the laws and hypotheses that are applicable in the field of physical science. The laws of motion or the principle of the conservation of force are here out of court. It is true that human conduct may be described as a mode or form of energy, but the important thing is the "form,"—it is *conscious* energy, and that makes all the difference. We are in danger of forgetting that the world does not consist of groups of facts all upon the same plane and explicable by the same definitions. Ethics differs from the sciences that stand next below it, viz., biology and natural history, in that while these treat man as organically related to his environment in nature and society, ethics treats of him as conscious of that relation.

(3) *It is more closely related to philosophy.* Another distinction is important. It flows naturally from the two already mentioned. It has already been observed that the explanations of particular sciences are, after all, relative. No fact or phenomenon is fully explained till its relations to all the world beside are clearly known and defined. But all the world beside, or the whole system of things, is not the subject-matter of any particular science. So far as it can be made a

<sup>1</sup> As a prominent instance of this mistake at the present time we might take the tendency to apply the law of natural selection, as it is observed to operate in unconscious nature and among the lower animals, to the life of man as a conscious and intelligent member of a social system. Even Mr. Spencer is not altogether free from this error. A great deal of the antagonism to the scientific treatment of the moral life is probably due to attempts to explain its phenomena upon inadequate principles.



subject of investigation at all, it is the subject of philosophy or metaphysics, the science of sciences.<sup>1</sup> But while philosophy alone deals with complete or final explanations, yet relatively, and in their own field, the explanations of the particular sciences are regarded as valid. It might be said, for instance, that the truth of the fifth proposition of the first book of Euclid is independent of the conclusions of philosophy as to the nature and reality of space, and no one would think it worth while seriously to question the statement that mathematics is independent of metaphysics. But the question may be and has been put with reference to ethics, Is it in like manner independent of philosophy? The older thinkers apparently were of opinion that it was not, as it was commonly spoken of as moral philosophy. Modern nomenclature and methods of treating it have emphasized its independence. Recent writers even go out of their way to disown all connection between ethics and metaphysics. But besides the general connection which there is between all the sciences which deal with some particular aspect of the world (e.g., mathematics, which deals with space; dynamics, which deals with bodies in motion) and philosophy or metaphysics, which deals with the nature and reality of the world as a whole, there is in the case of ethics a more particular connection. This is manifest whether we take the point of view of the first or of the second of the distinctions already mentioned.

For (1) *its judgments are thought to be absolute*. Ethics, we have seen, has to do with moral judgments, and these judgments are judgments of value—the value of conduct or character. Now, whatever they be in reality, they are apparently, at least, judgments of absolute, not merely of relative value; for it is usually thought and asserted that conduct is good or bad, not merely relatively, i.e., according as we choose to regard a certain end (e.g., the good of the society in which we live) as desirable or not, but absolutely, i.e., without relation to our individual views of what is desirable or not desirable in particular circumstances. This apparently is the meaning of duty and right as contrasted with pleasure or utility. In other words, morality is commonly thought to be required by the nature of things as a whole, not merely by the circumstances in which we happen to live. It is not necessary here to decide whether this opinion is true or false. Clearly

<sup>1</sup>Which, however, ought not to be thought of as opposed to the sciences, but only as “an unusually obstinate effort to think clearly” on their subject-matter.

if it is true there is a most intimate connection between ethics and metaphysics. And even if it be false it is difficult to see how its falsity can be proved without more or less overt reference to a philosophical doctrine of the place of man in the universe, and his relation to its central principle and purpose.

(2) *Man's consciousness of himself as a member of society involves a reference to a cosmic order.* This intimate connection between ethics and metaphysics may further be illustrated from the fact that in the former we have to do, not only with man as related to his material and social environment, but with man as conscious of this relationship. For this consciousness, as may be easily shown, involves a reference to the whole world besides, as a cosmos or order in which he has a place. In being conscious of himself as a citizen of a particular state, or as a member of the human brotherhood, he is also conscious of himself as a citizen of the world and as a member of a cosmos of related beings. And just as it is impossible to think of himself as a member of any lesser circle of relations, e.g., of the family, without thinking of himself as a member of a larger circle, e.g., a society or state, so it is impossible to think of himself as a member of society without thinking of himself as a member of a universal or cosmic order. His thought of himself, moreover, in this latter aspect, overflows, as it were, into all his other thoughts about himself, transforming and moulding them in such a way that it is impossible to treat of any of the lower forms of consciousness, e.g., his social consciousness, without taking the higher into account. It is of course possible for the moment and for purposes of science to abstract one aspect or form of consciousness, such as the consciousness of ourselves as members of a particular society, from our consciousness of ourselves in general, just as it is possible to abstract a particular form or aspect of space or of force from space or force in general. But when we come to analyse our social consciousness into its constituent elements, and ask, as we do in ethics, What is its nature and contents? we find that the answer depends upon our answer to the wider question, as to the nature and contents of consciousness as a whole, in a far more intimate way than does the question of the properties of the triangle or the electric current upon the question of the nature of space or force in general. Thus, to take a single instance, the science of mathematics will remain unaffected

whether we believe with one school of metaphysicians that our knowledge of space is given from without, or with another that it is an a priori form contributed by the mind itself. But no one could say that our ethical analysis of that form of social consciousness which we call conscience will remain unaffected whether we believe with the Epicureans that the world is an accidental concourse of atoms, or hold with the Stoics that it is the reflection of divine intelligence. We are thus led to the conclusion that, while the natural sciences may be said to be practically independent of metaphysics, the conclusions of philosophy as to the nature of the world at large and man's relation to it are of the utmost importance to ethics, and cannot be neglected in a complete exposition of its subject-matter.

While this is so, it may be convenient and even necessary, in an elementary treatise like the present, to consider the subject-matter of ethics with as little reference as possible to the philosophical questions involved. Little harm can come of this course, so long as we know what we are about. It only comes to be misleading when we confuse the temporary convenience of neglecting these questions with the permanent possibility of doing so. To assert that we may for purposes of investigation abstract from metaphysical considerations is one thing; to assert their irrelevance to our ultimate results is quite another.

### *Ethics as a "Practical" Science*

Ethics has sometimes been distinguished from the natural sciences on the ground that it is practical, while they are theoretic. On examination, however, the distinction is found to be a superficial one. It is true, indeed, that ethics stands nearer to our everyday life than do, for instance, astronomy or physiology. Its very name, as we have seen, implies this, and on this ground it has sometimes been called practical philosophy. It is the science of conduct (*πρᾶξις*) and the judgments which more deeply affect it. Its conclusions may therefore be said to be of immediate and universal interest in a sense which cannot be claimed for the conclusions of the sciences just mentioned. But this does not carry us far. For it may easily be shown that as a science ethics is just as theoretic as astronomy or physiology, while, as furnishing the basis for the scientific practice of the arts, e.g., of navigation and of healing, these sciences are just as practical as ethics.

The idea that there can be such a thing as a science which is purely theoretic comes from our habit of thinking of the natural sciences as systems of truth elaborated in books which are chiefly useful as a means of intellectual training. In the early stages of the history of science such a mistake was impossible. Man's interest in the laws of nature was then only the reflection of his interest in his own ends and purposes. Causes in nature were only interesting as means to practical ends. It is true that there came a time when man began to develop that "disinterested curiosity" which is the condition of all higher achievement in science. Yet it is equally true that, just in proportion as scientific research becomes divorced from the practical interest that man has in the subjugation of nature, there is a danger that it may become pedantic or dilettante. Even the most abstract and theoretic of all the sciences, viz., metaphysics or philosophy, while, as Novalis said, "it bakes no bread," is not without important bearing on the practical problems of everyday life.

On the other hand, the notion that ethics is less theoretic than any other science can only come from the tendency, already remarked upon, to confuse theory with practice in the field of conduct—ideas and judgments about morality in the study or in the class-room with moral ideas and moral judgments in the concrete circumstances of daily life.

*Has Ethics to do with what Ought to be rather than  
with what Is?*

Closely allied with the view just criticised is another that is not less misleading. Ethics, it is said, differs from the natural sciences in that, while they deal with things as they are, ethics deals with them as they ought to be. This distinction, it is maintained, is based upon the fundamental antithesis between natural and moral law. The former is the law of what is, the latter of what is to be.

Now it is undoubtedly true that for the individual the moral law represents something that ought to be, as opposed to physical law, which is a statement of what is. The law of gravitation is a statement of the actual relation between the pen I hold in my hand and the earth which attracts it. On the other hand, the law that I shall be perfectly sincere in the opinions I express by my writing is a state-



ment of what ought to be my relation to my reader, whatever the actual fact may be. But this is no more than to say that, as by this time must be obvious to the student, these two are laws in a wholly different sense. In the one case we have a scientific generalisation from the observation of facts, in the other we have a rule or maxim flowing from such a generalisation. What corresponds to moral law in this sense is the practical rule deducible from the conclusions of any particular science, e.g., the rules of health which are deducible from the conclusions of physiology. On the other hand, what corresponds in ethics to the theoretic conclusions of science are the definitions, classifications, and explanations. It is, indeed, true that in the search for the conclusions there sketched out we start from judgments of what ought to be,—this constitutes the distinctive mark of the science,—but it deals with these judgments as actual facts. At each step, moreover, in its progress the science is, as we shall see, in the closest contact with concrete facts, in just as true a sense as any other science. Thus it is its aim to show how moral judgments as to what ought to be are always relative to what is; they imply at every point the actual existence of a moral order, apart from which, as it is revealed in social relations, there could be no such thing as a moral law, any more than, apart from the known relations of the bodily organs to one another in what we might call the physiological order which reveals itself in them, there could be any laws of health in the ordinary sense of the term.

In criticising the distinction which it has been sought to establish between ethics and other sciences, on the ground of the difference between the "ought" and the "is," I have not meant to deny or in any way to obliterate the latter antithesis. However closely these categories may be related to one another, no identification of them is ultimately possible. I have merely wished to point out that the distinction between them is not applicable as a principle of division among the sciences themselves.<sup>1</sup>

<sup>1</sup>Dewey in his *Outlines of Ethics* (pp. 174 ff.) states: "A moral law, e.g. the law of justice, is no more merely a law of what ought to be than is the law of gravitation . . . the law of justice may appear as the law of something which ought to be but is not. . . . But the very fact that it ought to be for him implies that it already is for others. It is a law of the society of which he is a member."—ED.

*Distinction between Ethics and Politics*

It remains to distinguish ethics from a science with which it may seem to have been confused, when we spoke of the former as having to do with man as a member of society, namely, politics.<sup>1</sup> The connection between them is obvious. They both deal with human conduct and character. They both treat of these in connection with the end of human good, and therefore as the subject of moral judgment. They both conceive of them as subject to laws, carrying with them judicial rewards and penalties. The difference is that while ethics is concerned with the analysis of conduct and character as the subjects of moral judgment (i.e., as right and wrong), simply, politics has to do with the analysis of those external forms and institutions which lay down in outline the fields in which right conduct primarily manifests itself, viz., the family, school, church, profession, etc. Hence ethics may be said to precede politics. Only after we have arrived at a clear conception of the inward nature of right conduct can we hope to settle the question as to its proper external conditions. The foundation of a true criticism of political institutions must be laid in a true criticism of human life as subject to a supreme law or purpose, i.e., in ethics.

Hence also the familiar distinctions between political and moral law: (1) Morality is more authoritative than law, conscience than political institutions. Morality judges the latter, declaring them to be bad or good. A bad political law or institution is unfortunately a common phenomenon; a bad moral law is a contradiction in terms.<sup>2</sup>

<sup>1</sup>The word is here used in its ancient sense. Just as "Ethics" is preferred to the more ambitious title of "Moral Philosophy," so "Politics" may be preferred to "Political Philosophy," but in both cases it is to be understood that a science, not an art, is intended. The hybrid term "Sociology" seems likely to assert a place for itself. I understand the word as meaning the theory of society in general, including its origin and growth, whereas politics is the theory of civilised society organised as a state. On the distinction between Society and State, see D. G. Ritchie's *Principles of State Interference*, Appendix.

<sup>2</sup>The practical steps that ought to be taken in consequence of such an unfavourable judgment upon any particular law or institution will, of course, depend upon circumstances. The obvious formula in a country like our own is: agitation for reform plus temporary conformity. If any one thinks he can best agitate by refusing to conform, and taking the consequences, he may be admired for his moral zeal, but he will be punished for his political disobedience. The justification will be that more moral harm would come from leaving the law unvindicated than from punishing an enthusiast for reform.

(2) Morality extends over a wider field than legal enactment. It takes account of all conduct, not of some departments only. This follows from the distinction already drawn between politics and ethics. For as politics is the science of the external conditions of morality, the corresponding art—practical government—takes account only of those kinds of conduct which endanger these conditions. These conditions are not indeed confined, as a popular philosophical dogma represents, to protection of person and property,—such a limitation is purely arbitrary,—they embrace family life, education, recreation, and everything that admits of public organisation in the interest of morality. Yet the details of conduct within the circle of these conditions, e.g., within the family, the school, the theatre, lie outside this field, if for no other reason than their infinite multiplicity. (3) A deeper difference is that political law has to do with conduct in its external consequences, or if it goes deeper merely takes account of intention. It takes account of such visible effects as theft of property, neglect of wife and children, etc. On the other hand, the invisible things of the mind are recognised by most civilised governments as outside of their sphere. Morality regulates the inward motive and disposition as well as the outward effect,—the conduct of the understanding and the imagination as well as conduct towards property or children. It says not only "Thou shalt not steal," "Thou shalt not kill," but "Think no evil," "Flee vain and foolish imaginations." This also follows from the distinction between the external conditions and the life for which these are intended to make room. Political enactment can maintain property, the currency, the family, public education; it cannot secure that the citizens shall use these institutions in the spirit and for the purpose for which they were intended,—a truth which is expressed in the common saying that you cannot make men moral by act of parliament. The justification for legislation which apparently has this aim—e.g., the regulation or suppression of public houses—is not that by means of it we may make certain persons conform to moral demands, e.g., abstain from intoxicating liquor, but that we may improve the conditions of the moral life for the community at large, e.g., for the neighbours or the children of the toper. The man who abstains merely because owing to the state of the law he cannot get liquor is obviously not moral. A distinguished churchman is said to have remarked to the late Professor Thorold Rogers, "We must

have compulsory religion, because otherwise we shall have none at all," to which the Professor replied that he didn't see the difference. The same might be said of compulsory morality : it is equivalent to no morality at all.<sup>1</sup>

<sup>1</sup>On the general subject of the relation between Law and Morality, see Sidgwick's *Methods of Ethics*, Book I, chap. ii, also *Elements of Politics*, chap. xiii; and on the apparent permanency of the legal as compared with the moral code, see Alexander's *Moral Order and Progress*, p. 286.



## CHAPTER II

### SOCIAL PURPOSE

#### 3. THE END AS COMMON GOOD<sup>1</sup>

The current opinion<sup>2</sup> is that, while it requires a metaphysician like Hobbes to trace back all the elements and instincts of human nature to the egoistic desire for pleasure, it is yet possible to divide them psychologically into two distinct classes, the egoistic, or self-regarding, and the altruistic, or other-regarding. Of the former type we have the instinct of self-preservation and of the acquisition of property. Of the latter we have types in benevolence and sympathy. Similarly, there is the obvious social distinction between man and the state, the individual and society. On the one hand, we have the "rights of man." The individual is supposed to be born into the world with certain natural rights belonging to him as an individual. These are the germ of that system of conventional or artificial rights with which in any civilised country the law courts invest him.<sup>3</sup> On the other hand, as securing to him the enjoyment of his natural rights by means of the police and the law courts, the state has a certain limited right of taxation and control over individuals. One of the chief questions for the political philosopher is, it is supposed, to define the limits which the state must observe in interfering with the natural rights of

<sup>1</sup>From *The Elements of Ethics* (pp. 152-166), by J. H. Muirhead, M.A., LL.D., Professor of Philosophy in the University of Birmingham. Copyright, 1892, by Charles Scribner's Sons, New York.

<sup>2</sup>Not unsupported by the highest scientific authorities, as when Mr. Spencer represents human nature as the battle-ground of two permanently antithetical forces of egoism and altruism.

<sup>3</sup>The natural rights of man apparently are liberty, property, security, and "Resistance of Oppression." See Declaration of the Rights of Man, quoted in Paine's treatise on the same. The Declaration of Rights in the Constitution of the State of California further adds the right of "pursuing and obtaining (!) happiness." See Bryce's *American Commonwealth*, Vol. II, p. 643. As necessary corollaries of these some add "access to the soil"; others, more generally, "access to the means of production."

individuals. The quintessence of wisdom in this field is sometimes declared to be to recognise that, inasmuch as rights belong to man naturally and not in virtue of any connection with the artificial organisation of society and state, the state has really no business to interfere at all.<sup>1</sup>

It is not difficult to show that these distinctions, though relatively valid, as giving us different points of view from which it may be useful to look at psychological and social facts, are misleading when taken as absolute and final.

### *Relativity of these Distinctions*

1. *Egoistic and altruistic passions and desires.* Thus, in regard to the psychological distinctions referred to above between egoistic and altruistic desires, it is easy to show how the thought of self and the thought of others cross and interlace one another, in such a manner as to leave us with only a vanishing distinction between them. Thus, nothing seems more individualistic than the desire for life. But the moment we think of it, we see how in a rational being it is its social significance that makes life valuable to him. It is doubtful whether in a moment of peril a normally constituted individual thinks first, or even at all, of himself, except so far as he is related to others. His thoughts fly, e.g., to his wife and family. When life is emptied of these relations, i.e., when it appears only as an egoistic good, it is no good at all. It is just its emptiness of social content that makes life appear so worthless to the suicide.

On the other hand, the benevolent desire for the good of others involves a reference to self. By this it is not merely meant, as Professor Bain puts it, that "sympathy cannot exist upon the extreme of self-abnegation. . . . We must retain a sufficient amount of the self-regarding element to consider happiness an object worth striving for,"<sup>2</sup> but that, as has been already so frequently pointed out, the object of all desire is a personal good. Hence it is only as involved in one's own that one can desire one's neighbour's good: it is only as his good enters as an element into my conception of my good that I can make it an object of desire and volition.

<sup>1</sup>For further discussion of this point see Chapter IV of this volume.—ED.

<sup>2</sup>*Mental and Moral Science*, p. 282.

The inadequacy of such a classification of the elements of human nature into egoistic and altruistic is further seen in the difficulty which we should have in classifying the more violent forms of passion under either head. Thus love in its purer forms is commonly thought to be an altruistic emotion, having for its object the good of the loved object. Yet it may on occasions take forms into which the good of the loved object does not enter as an element. Similarly revenge, which is presumably upon this classification to be set down as an egoistic passion, nevertheless takes forms which involve the most complete self-abnegation.

2. *The individual and society.* In regard to the relations of the individual to society, it may likewise be shown that the independent rights put forward on behalf of the individual, by current individualistic theories, are, if taken literally, an arbitrary assumption. Whence, it may be asked, does the individual derive them? He has them, it may be said, by nature (the theory of "natural rights" seems to imply this). "Man," said Rousseau, "is born free," i.e., independent of the laws, habits, and conventions of society. But this is certainly not the case. The child who comes into the world inherits everything he has from a previous state of society. He owes everything he possesses to a combination of forces and circumstances (national, local, and family influences) over which he has had no control. It was a favourite metaphor with the older individualistic writers to liken the soul of the newly born child to a piece of blank paper, on which, by means of education, anything might be written, and so a perfectly independent and original character given to the individual. It would be a more apt illustration of its true nature to compare it to a word or sentence in a continuous narrative. The soul comes into the world already stamped with a meaning determined by its relation to all that went before,—having, in other words, a context in relation to which alone its character can be understood. It sums up the tendencies and traditions of the past out of which it has sprung,—giving them, indeed, a new form or expression, inasmuch as it is an individual, but only carrying on and developing their meaning, and not to be understood except in relation to them.

Or it may be said that man acquires these rights by education. Knowledge gives him power, individuality, freedom. This, of course, is true, but not in the sense that with these advantages he acquires any

rights as against society. On the contrary, the dependence of the individual upon society in the sense claimed is still more obvious when we consider what is implied in education. Thus it may be pointed out how absurd it is to speak, as is sometimes done, of a "self-educated man." No one can be said, in any proper sense, to educate himself. Nor indeed can any individual properly be said to gain his education from another. Parent or teacher can only help to open and interpret to him the sources of education. That education has begun long before it is consciously thought of, and goes on long after it is supposed to be completed. Intellectually it consists from first to last in the appropriation of a body of knowledge, not contained in the mind of any individual parent or teacher, but diffused through the language and literature of the society into which the child is born. The child has not to make its own ideas about the world, nor has the parent or teacher to make them for it. In spoken language, which is essentially a social institution, there is already a store-house of distinctions and generalisations which the child begins by appropriating. Its thoughts adapt themselves to the mould which is here prepared for them. They will be accurate and adequate in proportion (1) to the stage of accuracy which the language has reached (i.e., the stage of intellectual advance which the society whose language it is represents); (2) to the degree of culture which the group of persons who form its immediate society have attained. Not less representative of social acquisitions is the written language of books. This or that man indeed is said to write a book: he puts his name at the beginning of it, and his list of authorities in the preface or at the end. But in most cases it would represent the fact more accurately if he put the names of his authorities on the title page, and stowed away his own in some obscurer corner. All that he has done, all that he can do, is to recast the material supplied him by the labour of countless generations. His book is at best only a clever compilation from these.

The same remarks apply to the child's moral education. Here, again, it is not we who educate our children, but language with its store of ready-made moral distinctions, the nursery with its "spirit," its laws, and, as Plato would add, its pictures and songs, the family, the playground, and the church. These begin to act upon the child's moral life, forming or deforming it, at a time when direct verbal instruction is impossible. From its earliest infancy, to use a philoso-



pher's somewhat grandiloquent expression, the child "has been suckled at the breast of the Universal Ethos."<sup>1</sup>

### *Further Illustrations of Dependence of Individual on Society*

In industry this truth has a still more obvious application. Thus we sometimes hear in business of a "self-made man." But a moment's consideration makes it obvious that it is as impossible for a man to "make" himself as we saw it to be for him to educate himself. All he does is to use the opportunities that society offers to him. Where, to look no further, would his factory or business be but for the police who protect it, the laws that secure him the title deeds, the markets that supply the raw material, the community that supplies the labour to work it, the system of railways, harbours, etc., that are the means of disposing of the product? What is the share that all these things, each in its turn depending for its existence and efficiency upon a community of organised wills, as well as on the social labour of many generations, have in the wealth that is produced, and what is the share of the energetic individual who uses them? where in all this are we to draw the line between the respective rights of the man and of the state?

As a final illustration, we might take the case of great men. These, at any rate, it might be thought, are an exception to this dependence of the individual upon his society and his time. They stand out in solitary independence of the society in the midst of which they live. If they have not made themselves, they seem to have been made by God, and to owe little or nothing to their environment. Cæsar, Charlemagne, Napoleon, may thus be proved to have been makers of their social environment, instead of having been made by it. And indeed there is a sense in which this is true. Such men seem to contribute a new element to social progress, and to leave the world different from what they found it. But when we look closer we see that they do so, not in virtue of that which separates them from their time, but of that which unites them to it. It is their insight into the wants of the time, their sympathy with its blind longings and aspirations, that gives them their power over it. They are closer to the spirit of the time, and the moral order which that spirit represents, not further away

<sup>1</sup>On the subject of this section, see Bradley, *Ethical Studies*, pp. 145-158.

from it, than common people. This is the secret of their greatness. It is on this account that they "represent" their time.<sup>1</sup> They sum up and give expression to its tendencies. It is not so much they who act, as the spirit of the time that acts in them. The permanent part of their work (the establishment of an empire, of a system of education, or a new social organisation) was "in the air" when the man arrived. He was only an instrument in giving effect to it.

### *Ethical Import of these Facts*

1. The first consequence of the truth I have been illustrating which it is of importance for us to note is that the end which is the standard of moral judgment is a social one—the good is common good. A being who, like man, is a little higher than the animals, "a little lower than the angels," can only realise his own life in so far as he realises the life of the society of which he is a member.<sup>2</sup> To maintain himself in isolated independence, to refuse to be compromised by social relations, is the surest way to fail to realise the good he seeks.<sup>3</sup> To seek life in this sense is to lose it. On the other hand, a man finds salvation in the duties of family, profession, city, country. To lose his life in these is to find it. For the social fabric of which he finds himself a part is only the fabric of his own life "writ large." It is only the other, or objective side, of that which subjectively I described as the system of his impulses and desires, as controlled and organised by his reason. It might seem, at first sight, an illustration of an *ignotum per ignotius* to refer us from the desires and impulses, which we know as parts of ourselves, to the vague field of social rights and duties, which appeal to us only in a secondary way through moral rules and social conventions, were it not for the knack that these rights and duties have of grouping themselves in visible institutions. Thus, corresponding to the instinct of self-preservation and the rights and duties it involves, civilisation has produced the

<sup>1</sup> Compare Ben Jonson's apostrophe to Shakespeare as "Soul of the Age."

<sup>2</sup> Aristotle said that one who is independent of society is either "a god or a beast."

<sup>3</sup> As a simple illustration of this truth, I may quote the case of a man whose vote I once solicited for one of several strongly opposed candidates for the School Board. His answer was that he was an independent man, and intended to prove it by not voting at all.

police and law courts; corresponding to the instinct of propagation, the family; of acquisition, property and trade; of the pursuit of truth, the school, university, and academy of science. Apart from these, and the rights and duties they represent, the individual life shrivels up into quite insignificant proportions;<sup>1</sup> in connection with them it expands to the full extent of its recognised capabilities.

The same truth might be illustrated from the side of vice and evil. As the good of the individual is the common good, so his evil is common evil. No one can neglect the duty he owes himself of finding the equilibrium of his instincts and desires in the due proportion of their exercise, without failing in his duty to society, and disturbing the equilibrium of functions which constitute its health and well-being. The man who drinks away his wages, and upsets the equilibrium between desire for drink and desire for health, if he fails of no duty nearer home, deprives his trade or profession of an efficient member, and so is a source of common loss and evil. And just as we have the wholesome institutions of family, trade, the universities, etc., corresponding to the harmonious and proportionate satisfaction of natural instincts, so, corresponding to disorganisation in the system of desires, we have the morbid growth of brothels, gambling dens, cribs, and cramming establishments.<sup>2</sup>

2. It is only expressing the same truth in a more particular form to point out that the self is not merely related to society in general, but that each particular self is related in a special way to the society into which he is born. This way is best described under the form, which is not an ingenious metaphor, but a vital fact, of membership. The individual is not less vitally related to society than the hand or the foot to the body. Nor is it merely that each individual is dependent for life and protection upon society, as the hand or the foot is dependent for its nourishment upon the body, but he is dependent on his particular relation to society for the particular form of his individuality. It is the function it performs in virtue of its special place in the organism which makes the hand a hand, and the foot a foot. In the same way it is his place and function in society that makes the

<sup>1</sup> Becoming, as Hobbes puts it, "solitary, poor, nasty, brutish, short."

<sup>2</sup> It is common to make a distinction between sins of omission and commission. If the above account is true, this is merely superficial. To omit a duty is as much a common evil as to commit a positive trespass.

individual what he is. He realises himself by enabling society, through him, to perform the particular function which is represented by his station and its duties.<sup>1</sup>

### *Appeal to Moral Judgments in Support of Conclusions*

We have thus arrived at a new statement of the nature of the self, which, as the standard of moral judgment, I formerly described as the permanent unity underlying the multiplicity of desire. This, which may have appeared a somewhat metaphysical statement, I am now able to translate into the familiar language of every-day life, in so far as I have shown that this unity amid diversity assumes visible form in that circle of inter-related duties which we call a man's station in society. It remains merely to verify this explanation of moral judgments by submitting it to the test of fact, and asking whether moral judgments, which we have seen involve a reference to a true self or rational order among instincts and desires, bear out the interpretation I have just given to that self as essentially social by carrying with them a reference to a society or objective moral order as well.

That this is so with regard to a large section of our moral judgments is obvious. Injustice, dishonesty, untruthfulness, covetousness, are all judged bad on the ground of the harm to others they involve. So fully has this been recognised, that it has sometimes been proposed to resolve all virtue into right relations with our fellow-men under the common name of Justice, Benevolence, or Truth. But it is not so clear that this social reference is universally present in moral judgments, when we come to consider the so-called individualistic virtues and the duties we are said to owe to ourselves.

In the next chapter I shall have occasion to remark in detail how these involve a social reference.<sup>2</sup> Here it will be sufficient to take what

<sup>1</sup>See Bradley, *Ethical Studies*, pp. 157-186. Compare *Essays in Philosophical Criticism* (ed. Seth and R. B. Haldane), "The Social Organism," by Professor Henry Jones, especially pp. 193, 209 ff. Dewey points out that (1) the fulfilment of the duties of one's station, or, as he calls it, "adjustment to environment," can be taken as a moral ideal only on condition that it means "willing the maintenance and development of moral surroundings as one's own end"; (2) the function that is thus performed serves at once to define and to unite. It makes a man "a distinct social member at the same time that it makes him a member. . . . Individuality means, not separation, but defined position in a whole" (*Outlines of Ethics*, pp. 115 ff., 137, 138).

<sup>2</sup>Muirhead, Book IV, chap. ii.



is regarded as the first duty we owe to ourselves, the duty of self-preservation. And that it may not be obscured by obvious reference to "social ties," which may in a particular instance "bind a man to life," such as his duty to his wife and family, we must suppose all these ties have been dissolved, and life to have been to all appearance emptied of social significance. What, it may be asked, is implied in our judgment that suicide is wrong in such a case? *Ex hypothesi* there are no relations that can have any claim upon the would-be suicide. He is without friends, money, trade, or the hope of acquiring them. Here, if anywhere, it might be supposed our judgment refers to the individual. In parting with his life, he is merely parting with his own. If there is a duty in the matter, it is merely a duty to himself. There is no duty to society, and therefore society has no right to interfere with what is strictly his own affair.<sup>1</sup>

To all this society in most civilised countries, as is well known, replies, rudely enough, with the policeman's baton, the prison, or the lunatic asylum. It may indeed be said that this is no sufficient answer to the claim that is put forward. For the State may be wrong. Its judgments in this matter may not be in conformity with any true standard of right. But we have already seen reason in the nature of man himself for believing that its interference in this case is not without ethical justification. For if what was said in the earlier part of this chapter be sound, no man has a right to take his own life, because no man has a life of his own to take. His life has been given him, and has been made all that it is, as has been already shown, by society. He cannot morally part with it without consent of a society which is joint-owner with him in it. He carries on his life as a joint concern: he cannot dissolve the partnership without the consent of his partner in it.<sup>2</sup> Perhaps in the case selected society may have

<sup>1</sup> This, of course, is constantly urged in defence of suicide; and if we take up the position that certain duties rest on the value which life has to the individual alone, it is difficult to see what answer there can be. Hence individualistic theories of ethics, e.g., Stoicism, have always tended to justify suicide.

<sup>2</sup> Compare Burke's famous description: "Society is indeed a contract. Subordinate contracts for objects of mere occasional interest may be dissolved at pleasure; but the state ought not to be considered as nothing better than a partnership agreement in a trade of pepper and coffee, calico or tobacco, or some other such low concern, to be taken up for a little temporary interest, and to be dissolved by the fancy of the parties. It is to be looked on with other reverence; because

shamefully neglected its part. So far society is wrong, and is responsible for the state to which matters have come, but this does not absolve the individual from his duty to society. Two wrongs do not make a right.

### *Duty to Humanity*

Nor do we alter the social implication of moral judgment by saying that the duty in such cases is not to the state or community to which he belongs, but to God or to humanity, for this only brings into view a wider aspect of the moral order than that which we have hitherto considered. Thus, to take the latter contention first, to speak of our interest in humanity as the ground of obligation is only to extend our conception of what is implied in the moral order which we call society. It is to conceive of it as reaching beyond the limits of any particular time and country, and as progressively realising itself over the whole world and through the ages. The existence of such an order is not doubted by the historian. History, in the ordinary sense, is the record of the form which it takes, and the changes it undergoes, in a particular age or country. Universal history is the record of these forms and changes as organically related to one another, and to the whole which we call the growth or evolution of civilisation.<sup>1</sup>

Loyalty to the moral order in this sense is involved in loyalty to the narrower circle of duties which represent it for the individual. On the other hand, the former is impossible apart from the latter. It is not possible to do our duty to humanity, and leave undone our duty to our neighbour. Dickens has made us laugh over Mrs. Jellyby's "telescopic philanthropy." But in his humorous description of that lady's humanitarian eccentricities the novelist is only emphasising the truth which the philosopher expresses in different language when he reminds us that "there is no other genuine enthusiasm for humanity

it is not a partnership subservient only to the gross animal existence of a temporary and perishable nature. It is a partnership in all science, a partnership in all art, a partnership in every virtue and in all perfection. As the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born."—*Reflections on the Revolution in France*

<sup>1</sup>For a sketch of history in this sense, see Hegel's *Philosophy of History* (Bohn's Library).

than one which has travelled the common highway of reason—the life of the good neighbour and the honest citizen—and can never forget that it is still only a further stage of the same journey.”<sup>1</sup>

#### 4. THE MORAL GOOD AS THE FULFILMENT OF AN ORGANIZATION OF INTERESTS<sup>2</sup>

An interest, or unit of life, is essentially an organization which consistently acts for its own preservation. It deals with its environment in such wise as to keep itself intact and bring itself to maturity; appropriating what it needs, and avoiding or destroying what threatens it with injury. The interest so functions as to supply itself with the means whereby it may continue to exist and function. This is the principle of action which may be generalized from its behavior, and through which it may be distinguished within the context of nature. Now the term interest being construed in this sense, we may describe goodness as fulfilment of interest. The description will perhaps refer more clearly to human life, if for the term interest we substitute the term desire. Goodness would then consist in the satisfaction of desire. In other words, things are good because desired, not desired because good. To say that one desires things because one needs them, or likes them, or admires them, is redundant; in the end one simply desires certain things, that is, one possesses an interest or desire which they fulfil. There are as many varieties of goodness as there are varieties of interest; and to the variety of interest there is no end.

Strictly speaking, goodness belongs to an interest's actual state of fulfilment. This will consist in an activity, exercised by the interest, but employing the environment. With a slight shift of emphasis, goodness in this absolute sense will attach either to interest in so far as nourished by objects, as in the case of hunger appeased, or to objects in so far as assimilated to interest, as in the case of food consumed. It follows that goodness in a relative sense, in the sense of “good for,” will attach to whatever conduces to good in the abso-

<sup>1</sup>T. H. Green's *Introduction to the Moral Part of Hume's "Treatise,"* Works, Vol. I, p. 371.

<sup>2</sup>From *The Moral Economy* (pp. 11–19), by Ralph Barton Perry, Ph D., Professor of Philosophy in Harvard University. Copyright, 1909, by Charles Scribner's Sons, New York.

lute sense; that is, actions and objects, such as agriculture and bread, that lead directly or indirectly to the fulfilment of interest. But "good" and "good for," like their opposites "bad" and "bad for," are never sharply distinguishable, because the imagination anticipates the fortunes of interests, and transforms even remote contingencies into actual victory or defeat.

Through their organization into life, the mechanisms of nature thus take on the generic quality of good and evil. They either serve interests or oppose them; and must be employed and assimilated, or avoided and rejected accordingly. Events which once indifferently happened are now objects of hope and fear, or integral parts of success and failure.

But that organization of life which denotes the presence of morality has not yet been defined. The isolated interest extricates itself from mechanism; and, struggling to maintain itself, does, it is true, divide the world into good and bad, according to its uses. But the moral drama opens only when interest meets interest; when the path of one unit of life is crossed by that of another. Every interest is compelled to recognize other interests, on the one hand as parts of its environment, and on the other hand as partners in the general enterprise of life. Thus there is evolved the moral idea, or principle of action, according to which interest allies itself with interest in order to be free-handed and powerful against the common hereditary enemy, the heavy inertia and the incessant wear of the cosmos. Through morality a plurality of interests becomes an economy, or community of interests.

I have thus far described the situation as though it were essentially a social one. But while, historically speaking, it is doubtless always social in one of its aspects, the essence of the matter is as truly represented within the group of interests sustained by a single organism, when these, for example, are united in an individual life-purpose. Morality is that procedure in which several interests, whether they involve one or more physical organisms, are so adjusted as to function as one interest, more massive in its support, and more coherent and united in the common task of fulfilment. Interests morally combined are not destroyed or superseded, as are mechanical forces, by their resultant. The power of the higher interest is due to a summing of incentives emanating from the contributing interests; it can perpetuate itself only through keeping these interests alive. The most spec-



tacular instance of this is government, which functions as one, and yet derives its power from an enormous variety of different interests, which it must foster and conserve as the sources of its own life. In all cases the strength of morality must lie in its liberality and breadth.

Morality is simply the forced choice between suicide and abundant life. When interests war against one another they render the project of life, at best a hard adventure, futile and abortive. I hold it to be of prime importance for the understanding of this matter to observe that from the poorest and crudest beginnings, morality is the massing of interests against a reluctant cosmos. Life has been attended with discord and mutual destruction, but this is its failure. The first grumbling truce between savage enemies, the first collective enterprise, the first peaceful community, the first restraint on gluttony for the sake of health, the first suppression of ferocity for the sake of a harder blow struck in cold blood,—these were the first victories of morality. They were moral victories in that they organized life into more comprehensive unities, making it a more formidable thing, and securing a more abundant satisfaction. The fact that life thus combined and weighted, was hurled against life, was the lingering weakness, the deficiency which attends upon all partial attainment. The moral triumph lay in the positive access of strength.

Let us now correct our elementary conceptions of value so that they may apply to moral value. The fulfilment of a simple isolated interest is good, but only the fulfilment of an organization of interests is morally good. Such goodness appears in the realization of an individual's systematic purpose or in the well-being of a community. That it virtually implies one ultimate good, the fulfilment of the system of all interests, must necessarily follow; although we cannot at present deal adequately with that conclusion.

The quality of moral goodness, like the quality of goodness in the fundamental sense, lies not in the nature of any class of objects, but in any object or activity whatsoever, in so far as this provides a fulfilment of interest or desire. In the case of moral goodness this fulfilment must embrace a group of interests in which each is limited by the others. Its value lies not only in fulfilment, but also in adjustment and harmony. And this value is independent of the special subject-matter of the interests. Moralists have generally agreed that it is impossible to conceive moral goodness exclusively in terms of any

special interest, even such as honor, power, or wealth. There is no interest so rare or so humble that its fulfilment is not morally good, provided that fulfilment forms part of the systematic fulfilment of a group of interests.

But there has persisted from the dawn of ethical theory a misconception concerning the place of pleasure in moral goodness. It has been supposed that every interest, whatever its special subject-matter, is an interest in pleasure. Now while a thorough criticism of hedonism would be out of place here, even if it were profitable, a summary consideration of it will throw some light on the truth.<sup>1</sup> Fortunately, the ethical status of pleasure is much clearer than its psychological status. As a moral concern, pleasure is either a special interest, in which case it must take its place in the whole economy of life, and submit to principles which adjust it to the rest; or it is an element in every interest, in which case it is itself not an interest at all. Now whether it be proper to recognize a special interest in pleasure, it is not necessary here to determine. That this should be generally supposed to be the case is mainly due, I think, to a habit of associating pleasure peculiarly with certain familiar and recurrent bodily interests. At any rate it is clear that the pleasure which constantly attends interests is not that in which the interest is taken. Interests and desires are qualitatively diverse, and to an extent that is unlimited. The simpler organisms are not interested in pleasure, but in their individual preservation; while man is interested not only in preservation, but in learning, card-playing, loving, fighting, bargaining, and all the innumerable activities that form part of the present complex of life.

Now, it is true that it is agreeable or pleasant to contemplate the fulfilment of an interest; and that such anticipatory gratification in some measure accompanies all endeavor. But there is an absolute difference between such present pleasure and the prospect which evokes it. And it is that prospect or imagined state of fulfilment which is the object of endeavor, the good sought. It is also true that the fulfilment of every interest is pleasant. But this means only that the interest is conscious of its fulfilment. In pleasure and pain life records its gains and losses, and is guided to enhance the one or repair the other. Where in the scale of life pleasure and pain begin it is not

<sup>1</sup>The issue is presented clearly and briefly in Fr. Paulsen, *System of Ethics*, Book II, chap. ii, and in W. James, *Principles of Psychology*, Vol. II, pp. 549-559.

now possible to say, but it is certain that they are present wherever interests engage in any sort of reciprocity. If one interest is to control or engage another it must be aware of it, and alive to its success or failure. Where life has reached the human stage of complexity, in which interests supervene upon interests, in which every interest is itself an object of interest, the consciousness of good and evil assumes a constantly increasing importance. Life is more watchful of itself, more keenly sensitive to the fortunes of all of its constituent parts. It is proper, therefore, to associate pleasure with goodness; and happiness, or a more constant and pervasive pleasure, with the higher forms of moral goodness. But pleasure and happiness are incidental to goodness; necessary, but not definitive of its general form and structure.

In addition to goodness thus amplified there now enters into life at the moral stage a new element of value, the rightness or virtue of action which, though moved by some immediate desire, is at the same time controlled by a regard for a higher or more comprehensive interest. This is the distinguishing quality of all that wins moral approval: thrift and temperance; loyalty and integrity; justice, unselfishness, and public spirit; humanity and piety.<sup>1</sup>

Moral procedure, then, differs from life in its more elementary form, through the fact that interests are organized. Morality is only life where this has assumed the form of the forward movement of character, nationality, and humanity. Moral principles define the adjustment of interest to interest, for the saving of each and the strengthening of both against failure and death. Morality is only the method of carrying on the affair of life beyond a certain point of complexity. It is the method of concerted, cumulative living, through which interests are brought from a doubtful condition of being tolerated by the cosmos, to a condition of security and confidence. The spring and motive of morality are therefore absolutely one with those of life. The self-preservative impulse of the simplest organism is the initial bias from which, by a continuous progression in the direction of first intent, have sprung the service of mankind and the love of God.

<sup>1</sup> Further discussion of these virtues will be found in Perry, *Moral Economy*, chaps. ii and iii.

5. HAPPINESS AND SOCIAL ENDS<sup>1</sup>

(1) Moral quality is an attribute of character, of dispositions and attitudes which express themselves in desires and efforts. (2) Those attitudes and dispositions are morally good which aim at the production, the maintenance, and development of ends in which the agent and others affected alike find satisfaction. There is no difference (such as early utilitarianism made) between good as standard and as aim, because only a voluntary preference for and interest in a social good is capable, otherwise than by coincidence or accident, of producing acts which have common good as their result. Acts which are not motivated by it as aim cannot be trusted to secure it as result; acts which are motivated by it as a living and habitual interest are the guarantee, so far as conditions allow, of its realization. Those who care for the general good for its own sake are those who are surest of promoting it.

*The good moral character.* The genuinely moral person is one, then, in whom the habit of regarding all capacities and habits of self from the social standpoint is formed and active. Such an one forms his plans, regulates his desires, and hence performs his acts with reference to the effect they have upon the social groups of which he is a part. He is one whose dominant attitudes and interests are bound up with associated activities. Accordingly he will find his happiness or satisfaction in the promotion of these activities irrespective of the particular pains and pleasures that accrue.

*Social interests and sympathy.* A genuine social interest is then something much broader and deeper than an instinctive sympathetic reaction. Sympathy is a genuine natural instinct, varying in intensity in different individuals. It is a precious instrumentality for the development of social insight and socialized affection; but in and of itself it is upon the same plane as any natural endowment. It may lead to sentimentality or to selfishness; the individual may shrink from scenes of misery just because of the pain they cause him, or may seek jovial companions because of the sympathetic pleasures he gets. Or

<sup>1</sup>From *Ethics* (pp. 297-304), by John Dewey, Ph.D., LL.D., Professor of Philosophy in Columbia University, and James H. Tufts, Ph.D., LL.D., Professor of Philosophy in The University of Chicago. Copyright, 1908, by Henry Holt and Company, New York.



he may be moved by sympathy to labor for the good of others, but, because of lack of deliberation and thoughtfulness, be quite ignorant of what their good really is, and do a great deal of harm. One may wish to do unto others as he would they should do unto him, but may err egregiously because his conception of what is desirable for himself is radically false; or because he assumes arbitrarily that whatever he likes is good for others, and may thus tyrannically impose his own standards upon them. Again instinctive sympathy is partial; it may attach itself vehemently to those of blood kin or to immediate associates in such a way as to favor them at the expense of others, and lead to positive injustice toward those beyond the charmed circle.<sup>1</sup>

*Transformation of instinctive sympathies.* It still remains true that the instinctive affectionate reactions in their various forms (parental, filial, sexual, compassionate, sympathetic) are the sole portions of the psychological structure or mechanism of a man which can be relied upon to work the identification of other's ends with one's own interests. What is required is a blending, a fusing of the sympathetic tendencies with all the other impulsive and habitual traits of the self. When interest in power is permeated with an affectionate impulse, it is protected from being a tendency to dominate and tyrannize; it becomes an interest in effectiveness of regard for common ends. When an interest in artistic or scientific objects is similarly fused, it loses the indifferent and coldly impersonal character which marks the specialist as such, and becomes an interest in the adequate æsthetic and intellectual development of the conditions of a common life. Sympathy does not merely associate one of these tendencies with another; still less does it make one a means to the other's end. It so intimately permeates them as to transform them both into a single new and moral interest. This same fusion protects sympathy from sentimentality and narrowness. Blended with interest in power, in science, in art, it is liberalized in quality and broadened in range. In short, the fusion of affectionate reactions with the other dispositions of the self illuminates, gives perspective and body to the former, while it

<sup>1</sup> Mill in his article on Bentham says of him: "Personal affection, he well knew, is as liable to operate to the injury of third parties, and requires as much to be kept in check, as any other feeling whatever: and general philanthropy . . . he estimated at its true value when divorced from the feeling of duty, as the very weakest and most unsteady of all feelings."—*Utilitarianism*, p. 356

gives social quality and direction to the latter. The result of this reciprocal absorption is the disappearance of the natural tendencies in their original form and the generation of moral, i.e., socialized interests. It is sympathy transformed into a habitual standpoint which satisfies the demand for a standpoint which will render the person interested in foresight of all obscure consequences.

1. *Social interest and the happiness of the agent.* We now see what is meant by a distinctively moral happiness, and how this happiness is supreme in quality as compared with other satisfactions, irrespective of superior intensity and duration on the part of the latter. It is impossible to draw any fixed line between the content of the moral good and of natural satisfaction. The end, the right and only right end, of man, lies in the fullest and freest realization of powers in their appropriate objects. The good consists of friendship, family and political relations, economic utilization of mechanical resources, science, art, in all their complex and variegated forms and elements. There is no separate and rival moral good; no separate empty and rival "good will."

*Nature of moral interest and motivation.* Yet the interest in the social or the common and progressive realization of these interests may properly be called a distinctively moral interest. The degree of actual objective realization or achievement of these ends, depends upon circumstances and accidents over which the agent has little or no control. The more happily situated individual who succeeds in realizing these ends more largely we may call more fortunate; we cannot call him morally better. The interest in all other interests, the voluntary desire to discover and promote them within the range of one's own capacities, one's own material resources, and the limits of one's own surroundings, is, however, under one's control: it is one's moral self. The nature and exercise of this interest constitutes then the distinctively moral quality in all good purposes. They are morally good not so far as objectively accomplished and possessed, but so far as cherished in the dominant affections of the person.

*The moral interest as final happiness.* Consequently the true or final happiness of an individual, the happiness which is not at the mercy of circumstance and change of circumstance, lies not in objective achievement of results, but in the supremacy within character of an alert, sincere, and persistent interest in those habits and institu-

tions which forward common ends among men. Mill insisted that quality of happiness was morally important, not quantity. Well, that quality which is most important is the peace and joy of mind that accompanies the abiding and equable maintenance of socialized interests as central springs of action. To one in whom these interests live (and they live to some extent in every individual not completely pathological) their exercise brings happiness because it fulfills his life. To those in whom it is the supreme interest it brings supreme or final happiness. It is not preferred because it is the greater happiness, but in being preferred as expressing the only kind of self which the agent fundamentally wishes himself to be, it constitutes a kind of happiness with which others cannot be compared. It is unique, final, invaluable.<sup>1</sup>

*Identity of the individual and general happiness.* No algebraic summing up of sympathetic pleasures, utilities of friendship, advantages of popularity and esteem, profits of economic exchange among equals, over against pains from legal penalties and disapproving public opinion, and lack of sympathetic support by others, can ever make it even approximately certain that an individual's own interest, in terms of quantity of pleasures and pains, is to regard the interest of others.<sup>2</sup> Such a demonstration, moreover, if possible, would not support but would weaken the moral life. It would reduce the manifestation of character to selecting greater rather than less amounts of homogeneous ends. It would degrade reflection and consideration to ingenuity in detecting where larger quantities of pleasures lie, and to skill in performing sums of addition and subtraction. Even if such a scheme could be demonstrated, every one except the most languid and phlegmatic of pleasure-seekers would reject a life built upon it. Not only the "good," but the more vigorous and hearty of the "bad," would

<sup>1</sup>"It is only a poor sort of happiness that could ever come by caring very much about our own narrow pleasures. We can only have the highest happiness, such as goes along with being a great man, by having wide thought and much feeling for the rest of the world as well as ourselves; and this sort of happiness often brings so much pain with it, that we can only tell it from pain by its being what we would choose before everything else, because our souls see it is good."

—GEORGE ELIOT, *Romola*

<sup>2</sup>The recognition of this by many utilitarian hedonists has caused them to have recourse to the supernaturally inflicted penalties and conferred delights of a future life to make sure of balancing up the account of virtue as self-sacrificing action with happiness, its proper end.

scorn a life in which character, selfhood, had no significance, and where the experimental discovery and testing of destiny had no place. The identity of individual and general happiness is a moral matter ; it depends, that is, upon the reflective and intentional development of that type of character which identifies itself with common ends, and which is happy in these ends just because it has made them its own.

2. *Social ends and the happiness of others.* The same principle holds of the happiness of others. Happiness means the expression of the active tendencies of a self in their appropriate objects. Moral happiness means the satisfaction which comes when the dominant active tendencies are made interests in the maintenance and propagation of the things that make life worth living. Others, also, can be happy and should be happy only upon the same terms. Regard for the happiness of others means regard for those conditions and objects which permit others freely to exercise their own powers from their own initiative, reflection, and choice. Regard for their final happiness (i.e., for a happiness whose quality is such that it cannot be externally added to or subtracted from) demands that these others shall find the controlling objects of preference, resolution, and endeavor in the things that are worth while.

3. *Happiness and common ends.* For all alike, in short, the chief thing is the discovery and promotion of those activities and active relationships in which the capacities of all concerned are effectively evoked, exercised, and put to the test. It is difficult for a man to attain a point of view from which steadily to apprehend how his own activities affect and modify those of others. It is hard, that is, to learn to accommodate one's ends to those of others ; to adjust, to give way here, and fit in there with respect to our aims. But difficult as this is, it is easy compared with the difficulty of acting in such a way for ends which are helpful to others as will call out and make effective their activities.

*Moral democracy.* If the vice of the criminal, and of the coarsely selfish man is to disturb the aims and the good of others ; if the vice of the ordinary egoist, and of every man, upon his egoistic side, is to neglect the interests of others ; the vice of the social leader, of the reformer, of the philanthropist and the specialist in every worthy cause of science, or art, or politics, is to seek ends which promote the social welfare in ways which fail to engage the active interest and coöpera-



tion of others.<sup>1</sup> The conception of conferring the good upon others, or at least of attaining it for them, which is our inheritance from the aristocratic civilization of the past, is so deeply embodied in religious, political, and charitable institutions and in moral teachings, that it dies hard. Many a man, feeling himself justified by the social character of his ultimate aim (it may be economic, or educational, or political), is genuinely confused or exasperated by the increasing antagonism and resentment which he evokes, because he has not enlisted in his pursuit of the "common" end the freely coöperative activities of others. This coöperation must be the root principle of the morals of democracy. It must be, however, confessed that it has as yet made little progress.

Our traditional conceptions of the morally great man, the moral hero and leader, the exceptionally good social and political character, all work against the recognition of this principle either in practice or theory. They foster the notion that it is somebody's particular business to reach by his more or less isolated efforts (with "following," or obedience, or unreflective subordination on the part of others) a needed social good. Some genius is to lead the way; others are to adopt and imitate. Moreover, the method of awakening and enlisting the activities of all concerned in pursuit of the end seems slow; it seems to postpone accomplishment indefinitely. But in truth a common end which is not made such by common, free voluntary coöperation in process of achievement is such in name only. It has no support and guarantee in the activities which it is supposed to benefit, because it is not the fruit of those activities. Hence, it does not stay put. It has to be continually buttressed by appeal to external, not voluntary, considerations; bribes of pleasure, threats of harm, use of force. It has to be undone and done over. There is no way to escape or evade this law of happiness, that it resides in the exercise of the active capacities of a voluntary agent; and hence no way to escape or evade the law of a common happiness, that it must reside in the congruous exercise of the voluntary activities of all concerned. The inherent irony and tragedy of much that passes for a high kind of socialized activity is precisely that it seeks a common good by methods which forbid its being either common or a good.

<sup>1</sup>The recognition of this type of spiritual selfishness is modern. It is the pivot upon which the later (especially) of Ibsen's tragedies turn.

6. EGOISM AND ALTRUISM<sup>1</sup>

For the last three centuries, the most discussed point in English ethical literature (save perhaps whether moral knowledge is intuitive or derived from experience) has been the relation of regard for one's own self and for other selves as motives of action—"the crux of all ethical speculation," Spencer terms it. All views have been represented: (1) That man naturally acts from purely selfish motives and that morality consists in an enforced subjection of self-love to the laws of a common social order. (2) That man is naturally selfish, while morality is an "enlightened selfishness," or a regard for self based upon recognition of the extent to which its happiness requires consideration of others. (3) That the tendencies of the agent are naturally selfish, but that morality is the subjection of these tendencies to the law of duty. (4) That man's interests are naturally partly egoistic and partly sympathetic, while morality is a compromise or adjustment of these tendencies. (5) That man's interests are naturally both, and morality a subjection of both to conscience as umpire. (6) That they are both, while morality is a subjection of egoistic to benevolent sentiments. (7) That the individual's interests are naturally in objective ends which primarily are neither egoistic nor altruistic; and these ends become either selfish or benevolent at special crises, at which times morality consists in referring them, equally and impartially for judgment, to a situation in which the interests of the self and of others concerned are involved: to a common good.

*Three underlying psychological principles.* We shall make no attempt to discuss these various views in detail; but will bring into relief some of the factors in the discussion which substantiate the view (7) stated last. It will be noted that the theories rank themselves under three heads with reference to the constitution of man's tendencies: holding they (*a*) naturally have in view personal ends exclusively or all fall under the principle of self-love or self-regard; that (*b*) some of them contemplate one's own happiness and some of them that of others; that (*c*) primarily they are not consciously concerned with either one's own happiness or that of others. Memory and reflection may show (just as it shows other things) that their consequences affect both the self and others, when the recognition of

<sup>1</sup>Dewey and Tufts, *Ethics*, pp. 375-391.

this fact becomes an additional element, either for good or for evil, in the motivation of the act. We shall consider, first, the various senses in which action occurs, or is said to occur, in behalf of the person's own self; and then take up, in similar fashion, its reference to the interests of others.

### I. *Action in Behalf of Self*

1. *Motives as selfish.* The Natural Selfishness of Man is maintained from such different standpoints and with such different objects in view that it is difficult to state the doctrine in any one generalized form. By some theologians, it has been associated with an innate corruption or depravity of human nature and been made the basis of a demand for supernatural assistance to lead a truly just and benevolent life. By Hobbes (1588-1679) it was associated with the anti-social nature of individuals and made the basis for a plea for a strong and centralized political authority<sup>1</sup> to control the natural "war of all against all" which flows inevitably from the psychological egoism. By Kant, it was connected with the purely sense origin of desires, and made the basis for a demand for the complete subordination of desire to duty as a motive for action. Morals, like politics, make strange bedfellows! The common factor in these diverse notions, however, is that every act of a self must, when left to its natural or psychological course, have the interest of the self in view; otherwise there would be no motive for the deed and it would not be done. This theoretical and a priori view is further supported by pointing out, sometimes in reprobation of man's sinful nature, sometimes in a more or less cynical vein, the lurking presence of some subtle regard for self in acts that apparently are most generous and "disinterested."<sup>2</sup>

*Ambiguity of the psychological basis.* The notion that all action is "for the self" is infected with the same ambiguity as the (analogous) doctrine that all desire is for happiness. Like that doctrine, in one sense it is a truism, in another a falsity—this latter being the sense in which its upholders maintain it. Psychologically, any object that moves us, any object in which we imagine our impulses to rest

<sup>1</sup>Machiavelli, transferring from theology to statecraft the notion of the corruption and selfishness of all men, was the first modern to preach this doctrine.

<sup>2</sup>See, for example, Hobbes, *Leviathan*; Mandeville, *Fable of the Bees*; and Rochefoucauld, *Maxims*.

satisfied or to find fulfillment, becomes, in virtue of that fact, a factor in the self. If I am enough interested in collecting postage stamps, a collection of postage stamps becomes a part of my "ego," which is incomplete and restless till filled out in that way. If my habits are such that I am not content when I know my neighbor is suffering from a lack of food until I have relieved him, then relief of his suffering becomes a part of my selfhood. If my desires are such that I have no rest of mind until I have beaten my competitor in business, or have demonstrated my superiority in social gifts by putting my fellow at some embarrassing disadvantage, then that sort of thing constitutes my self. Our instincts, impulses, and habits all demand appropriate objects in order to secure exercise and expression; and these ends in their office of furnishing outlet and satisfaction to our powers form a cherished part of the "me." In this sense it is true, and a truism, that all action involves the interest of self.

*True and false interpretation.* But this doctrine is the exact opposite of that intended by those who claim that all action is from self-love. The true doctrine says, the self is constituted and developed through instincts and interests which are directed upon their own objects with no conscious regard necessarily for anything except those objects themselves. The false doctrine implies that the self exists by itself apart from these objective ends, and that they are merely means for securing it a certain profit or pleasure.

Suppose, for example, it is a case of being so disturbed in mind by the thought of another in pain that one is moved to do something to relieve him. This means that certain native instincts or certain acquired habits demand relief of others as part of themselves. The well-being of the other is an interest of the self: is a part of the self. This is precisely what is meant ordinarily by unselfishness: not lack or absence of a self, but such a self as identifies itself in action with others' interests and hence is satisfied only when they are satisfied. To find pain in the thought of others pained and to take pleasure in the thought of their relief, is to have and to be moved by personal motives, by states which are "selfish" in the sense of making up the self; but which are the exact opposite of selfish in the sense of being the thought of some private advantage to self.<sup>1</sup> Putting it roundly,

<sup>1</sup> Compare also the following from Leslie Stephen, *Science of Ethics*, p. 241. It is often "insinuated that I dislike your pain because it is painful to me in some



then, the fallacy of the selfish motive theory is that it fails to see that instincts and habits directed upon objects are primary, and that they come before any conscious thought of self as end, since they are necessary to the constitution of that thought.

The following quotation from James<sup>1</sup> states the true doctrine:

When I am led by selflove to keep my seat whilst ladies stand, or to grab something first and cut out my neighbor, what I really love is the comfortable seat; it is the thing itself which I grab. I love them primarily, as the mother loves her babe, or a generous man an heroic deed. Wherever, as here, selfseeking is the outcome of simple instinctive propensity, it is but a name for certain reflex acts. Something rivets my attention fatally and fatally provokes the "selfish" response. . . . It is true I am no automaton, but a thinker. But my thoughts, like my acts, are here concerned only with the outward things. . . . In fact the more utterly selfish I am in this primitive way, the more blindly absorbed my thought will be in the objects and impulses of my lust and the more devoid of any inward looking glance.

2. *Results as selfish: ambiguity in the notion.* We must then give up the notion that motives are inherently self-seeking, in the sense that there is in voluntary acts a thought of the self as the end for the sake of which the act is performed. The self-seeking doctrine may, however, be restated in these terms: Although there is no thought of self or its advantage consciously entertained, yet our original instincts are such that their objects do as matter of result conduce primarily to the well-being and advantage of the self. In this sense, anger, fear, hunger, and thirst, etc., are said to be egoistic or self-seeking—not that their conscious object is the self, but that their inevitable effect is to preserve and protect the self. The fact that an instinct secures self-preservation or self-development does not, however, make it "egoistic" or "selfish" in the moral sense; nor does it throw any light upon the moral status of the instinct. Everything depends upon the sort of self which is maintained. There is, indeed,

special relation. I do not dislike it as your pain, but in virtue of some particular consequence, such, for example, as its making you less able to render me a service. In that case I do not really object to your pain as your pain at all, but only to some removable and accidental consequences." The entire discussion of sympathy (pp. 230-245), which is admirable, should be consulted.

<sup>1</sup> *Psychology*, Vol. I, p. 320. The whole discussion (pp. 317-329) is very important.

some presumption (Dewey and Tufts, p. 294) that the act sustains a social self, that is, a self whose maintenance is of social value. If the individual organism did not struggle for food; strive aggressively against obstacles and interferences; evade or shelter itself against menacing superior force, what would become of children, fathers and mothers, lawyers, doctors and clergymen, citizens and patriots—in short, of society? If we avoid setting up a purely abstract self, if we keep in mind that every actual self is a self which includes social relations and offices, both actual and potential, we shall have no difficulty in seeing that self-preservative instincts may be, and taken by and large, must be, socially conservative. Moreover, while it is not true that if "a man does not look after his own interests no one else will" (if that means that his interests are no one else's affair in any way), it is true that no one has a right to neglect his own interests in the hope that some one else will care for them. "His own interests," properly speaking, are precisely the ends which concern him more directly than they concern any one else. Each man is, so to say, nearer himself than is any one else, and, therefore, has certain duties to and about himself which cannot be performed by any other one. Others may present food or the conditions of education, but the individual alone can digest the food or educate himself. It is profitable for society, not merely for an individual, that each of us should instinctively have his powers most actively and intensely called out by the things that distinctively affect him and his own welfare. Any other arrangement would mean waste of social energy, inefficiency in securing social results.

The quotation from James also makes it clear, however, that under certain circumstances the mere absorption in a thing, even without conscious thought of self, is morally offensive. The "pig" in manners is not necessarily thinking of himself; all that is required to make him a pig is that he should have too narrow and exclusive an object of regard. The man sees simply the seat, not the seat and the lady. The boor in manners is unconscious of many of the objects in the situation which should operate as stimuli. One impulse or habit is operating at the expense of others; the self in play is too petty or narrow. Viewed from the standpoint of results, the fact which constitutes selfishness in the moral sense is not that certain impulses and habits secure the well-being of the self, but that the well-being secured

is a narrow and exclusive one. The forms of coarse egoism which offend us most in ordinary life are not usually due to a deliberate or self-conscious seeking of advantage for self, but to such preoccupation with certain ends as blinds the agent to the thought of the interests of others. Many whose behavior seems to others most selfish would deny indignantly (and, from the standpoint of their definite consciousness, honestly) any self-seeking motives: they would point to certain objective results, which in the abstract are desirable, as the true ends of their activities. But none the less, they are selfish, because the limitations of their interests make them overlook the consequences which affect the freedom and happiness of others.

3. *There are also cases in which the thought of the resulting consequence to the self consciously enters in and modifies the motive of the act.* With increasing memory and foresight, one can no more ignore the lesson of the past as to the consequences of an act upon himself than he can ignore other consequences. A man who has learned that a certain act has painful consequences to himself, whether to his body, his reputation, his comfort, or his character, is quite likely to have the thought of himself present itself as part of the foreseen consequences when the question of a similar act recurs. In and of itself, once more, this fact throws no light upon the moral status of the act. Everything depends upon what sort of a self moves and how it moves. A man who hesitated to rush into a burning building to rescue a suit of clothes because he thought of the danger to himself, would be sensible; a man who rushed out of the building just because he thought of saving himself when there were others he might have assisted, would be contemptible.

The one who began taking exercise because he thought of his own health, would be commended; but a man who thought so continually of his own health as to shut out other objects, would become an object of ridicule or worse. There is a moral presumption that a man should make consideration of himself a part of his aim and intent. A certain care of health, of body, of property, of mental faculty, because they are one's own is not only permissible, but obligatory. This is what the older moral writers spoke of as "prudence," or as "reasonable self-love."

a. It is a stock argument of the universal selfishness theory to point out that a man's acknowledgment of some public need or benefit is quite likely to coincide with his recognition of some private advan-

tage. A statesman's recognition of some measure of public policy happens to coincide with perceiving that by pressing it he can bring himself into prominence or gain office. A man is more likely to see the need of improved conditions of sanitation or transportation in a given locality if he has property there. A man's indignation at some prevalent public ill may sleep till he has had a private taste of it. We may admit that these instances describe a usual, though not universal, state of affairs. But does it follow that such men are moved merely by the thought of gain to themselves? Possibly this sometimes happens; then the act is selfish in the obnoxious sense. The man has isolated his thought of himself as an end and made the thought of the improvement or reform merely an external means. The latter is not truly his end at all; he has not identified it with himself. In other cases, while the individual would not have recognized the end if the thought of himself had not been implicated, yet after he has recognized it, the two—the thought of himself and of the public advantage—may blend. His thought of himself may lend warmth and intimacy to an object which otherwise would have been cold, while, at the same time, the self is broadened and deepened by taking in the new object of regard.

*b.* Take the case of amusement or recreation. To an adult usually engaged in strenuous pursuits, the thought of a pleasure for the mere sake of pleasure, of enjoyment, of having a "good time," may appeal as an end. And if the pleasure is itself "innocent," only the requirements of a preconceived theory (like the Kantian) would question its legitimacy. Even its moral necessity is clear when relaxation is conducive to cheerfulness and efficiency in more serious pursuits. But if a man discriminates mentally between himself and the play or exercise in which he finds enjoyment and relief, thinking of himself as a distinct end to which the latter is merely means, he is not likely to get the recreation. It is by forgetting the self, that is by taking the light and easy activity as the self of the situation, that the benefit comes. To be a "lover of pleasure" in the bad sense is precisely to seek amusements as excitements for a self which somehow remains outside them as their fixed and ulterior end.

*c.* Exactly the same analysis applies to the idea of the moral culture of the self, of its moral perfecting. Every serious-minded person has, from time to time, to take stock of his status and progress in moral



matters—to take thought of the moral self just as at other times he takes thought of the health of the bodily self. But woe betides that man who, having entered upon a course of reflection which leads to a clearer conception of his own moral capacities and weaknesses, maintains that thought as a distinct mental end, and thereby makes his subsequent acts simply means to improving or perfecting his moral nature. Such a course defeats itself. At the least, it leads to priggishness, and its tendency is towards one of the worst forms of selfishness: a habit of thinking and feeling that persons, that concrete situations and relations, exist simply to render contributions to one's own precious moral character. The worst of such selfishness is that having protected itself with the mantle of interest in moral goodness, it is proof against that attrition of experience which may always recall a man to himself in the case of grosser and more unconscious absorption. A sentimentally refined egoism is always more hopeless than a brutal and naïve one—though a brutal one not infrequently protects itself by adoption and proclamation of the language of the former.

## II. *Benevolence or Regard for Others*

*Ambiguity in conception.* There is the same ambiguity in the idea of sympathetic or altruistic springs to action that there is in that of egoistic and self-regarding. Does the phrase refer to their conscious and express intent? or to their objective results when put into operation, irrespective of explicit desire and aim? And, if the latter, are we to believe contribution to the welfare of others to be the sole and exclusive character of some springs of action, or simply that, under certain circumstances, the emphasis falls more upon the good resulting to others than upon other consequences? The discussion will show that the same general principles hold for "benevolent" as for self-regarding impulses: namely (1) that there are none which from the start are consciously such; (2) that while reflection may bring to light their bearing upon the welfare of others so that it becomes an element in the conscious desire, this is a matter of relative preponderance, not of absolute nature; and (3) that just as conscious regard for self is not necessarily bad or "selfish," so conscious regard for others is not necessarily good: the criterion is the whole situation in which the desire takes effect.

1. *The existence of other-regarding springs to action.* Only the preconceptions of hedonistic psychology would ever lead one to deny the existence of reactions and impulses called out by the sight of others' misery and joy and which tend to increase the latter and to relieve the former. Recent psychologists (writing, of course, quite independently of ethical controversies) offer lists of native instinctive tendencies such as the following: Anger, jealousy, rivalry, secretiveness, acquisitiveness, fear, shyness, sympathy, affection, pity, sexual love, curiosity, imitation, play, constructiveness.<sup>1</sup> In this inventory, the first seven may be said to be aroused specially by situations having to do with the preservation of the self; the next four are responses to stimuli proceeding especially from others and tending to consequences favorable to them, while the last four are mainly impersonal. But the division into self-regarding and other-regarding is not exclusive and absolute. Anger may be wholly other-regarding, as in the case of hearty indignation at wrongs suffered by others; rivalry may be generous emulation or be directed toward surpassing one's own past record. Love between the sexes, which should be the source of steady, far-reaching interest in others, and which at times expresses itself in supreme abnegation of devotion, easily becomes the cause of brutal and persistent egoism. In short, the division into egoistic and altruistic holds only "other things being equal."

· Confining ourselves for the moment to the native psychological equipment, we may say that man is endowed with instinctive promptings which naturally (that is, without the intervention of deliberation or calculation) tend to preserve the self (by aggressive attack as in anger, or in protective retreat as in fear); and to develop his powers (as in acquisitiveness, constructiveness, and play); and which equally, without consideration of resulting ulterior benefit either to self or to others, tend to bind the self closer to others and to advance the interests of others—as pity, affectionateness, or again, constructiveness and play. Any given individual is naturally an erratic mixture of fierce insistence upon his own welfare and of profound susceptibility to the happiness of others—different individuals varying much in the respective intensities and proportions of the two tendencies.

2. *The moral status of altruistic tendencies.* We have expressly devoted considerable space to showing that there are no motives

<sup>1</sup> See, for example, James, *Principles of Psychology*, Vol. II, chap. xxiv.

which in and of themselves are right; that any tendency, whether original instinct or acquired habit, requires sanction from the special consequences which, in the special situation, are likely to flow from it. The mere fact that pity in general tends to conserve the welfare of others does not guarantee the rightness of giving way to an impulse of pity, just as it happens to spring up. This might mean sentimentalism for the agent, and weakening of the springs of patience, courage, self-help, and self-respect in others. The persistence with which the doctrine of the evils of indiscriminate charity has to be taught is sufficient evidence that the so-called other-regarding impulses require the same control by reason as do the "egoistic" ones. They have no inherent sacredness which exempts them from the application of the standard of the common and reasonable happiness.

*Evils of unregulated altruism.* So much follows from the general principles already discussed. But there are special dangers and evils attendant upon an exaggeration of the altruistic idea. (1) It tends to render others dependent, and thus contradicts its own professed aim: the helping of others. Almost every one knows some child who is so continuously "helped" by others, that he loses his initiative and resourcefulness. Many an invalid is confirmed in a state of helplessness by the devoted attention of others. In large social matters there is always danger of the substitution of an ideal of conscious "benevolence" for justice: it is in aristocratic and feudal periods that the idea flourishes that "charity" (conceived as conferring benefits upon others, doing things for them) is inherently and absolutely a good. The idea assumes the continued and necessary existence of a dependent "lower" class to be the recipients of the kindness of their superiors; a class which serves as passive material for the cultivation in others of the virtue of charity, the higher class "acquiring merit" at expense of the lower, while the lower has gratitude and respect for authority as its chief virtues.

(2) The erection of the "benevolent" impulse into a virtue in and of itself tends to build up egoism in others. The child who finds himself unremittingly the object of attention from others is likely to develop an exaggerated sense of the relative importance of his own ego. The chronic invalid, conspicuously the recipient of the conscious altruism of others, is happy in nature who avoids the slow growth of an insidious egoism. Men who are the constant subjects of abnegation

on the part of their wives and female relatives rarely fail to develop a self-absorbed complacency and unconscious conceit.

(3) Undue emphasis upon altruism as a motive is quite likely to react to form a peculiarly subtle egoism in the person who cultivates it. Others cease to be natural objects of interest and regard, and are converted into excuses for the manifestation and nurture of one's own generous goodness. Underlying complacency with respect to social ills grows up because they afford an opportunity for developing and displaying this finest of virtues. In our interest in the maintenance of our own benign altruism we cease to be properly disturbed by conditions which are intrinsically unjust and hateful.<sup>1</sup> (4) As present circumstances amply demonstrate, there is the danger that the erection of benevolence into a conscious principle in some things will serve to supply rich persons with a cloak for selfishness in other directions. Philanthropy is made an offset and compensation for brutal exploitation. A man who pushes to the breaking-point of legality aggressively selfish efforts to get ahead of others in business, squares it in his own self-respect and in the esteem of those classes of the community who entertain like conceptions, by gifts of hospitals, colleges, missions, and libraries.

*Genuine and false altruism.* These considerations may be met by the obvious retort that it is not true altruism, genuine benevolence, sincere charity, which we are concerned with in such cases. This is a true remark. We are not of course criticizing true but spurious interest in others. But why is it counterfeit? What is the nature of the genuine article? The danger is not in benevolence or altruism, but in that conception of them which makes them equivalent to regard for others as others, irrespective of a social situation to which all alike belong. There is nothing in the selfhood of others, because they are others, which gives it any supremacy over selfhood in oneself. Just as it is exclusiveness of objective ends, the ignoring of relations, which is objectionable in selfishness, so it is taking the part for the whole which is obnoxious in so-called altruism. To include in our view of consequences the needs and possibilities of others on the same basis

<sup>1</sup>Measures of public or state activity in the extension, for example, of education (furnishing free text-books, adequate medical inspection, and remedy of defects), are opposed by "good people" because there are "charitable" agencies for doing these things.



as our own, is to take the only course which will give an adequate view of the situation. There is no situation into which these factors do not enter. To have a generous view of others is to have a larger world in which to act. To remember that they, like ourselves, are persons, are individuals who are centers of joy and suffering, of lack and of potentiality, is alone to have a just view of the conditions and issues of behavior. Quickened sympathy means liberality of intelligence and enlightened understanding.

*The social sense versus altruism.* There is a great difference in principle between modern philanthropy and the "charity" which assumes a superior and an inferior class. The latter principle tries to acquire merit by employing one's superior resources to lessen, or to mitigate, the misery of those who are fixed in a dependent status. Its principle, so far as others are concerned, is negative and palliative merely. The motive of what is vital in modern philanthropy is constructive and expansive because it looks to the well-being of society as a whole, not to soothing or rendering more tolerable the conditions of a class. It realizes the interdependence of interests: that complex and variegated interaction of conditions which makes it impossible for any one individual or "class" really to secure, to assure, its own good as a separate thing. Its aim is general social advance, constructive social reform, not merely doing something kind for individuals who are rendered helpless from sickness or poverty. Its aim is the equity of justice, not the inequality of conferring benefits. That the sight of the misery that comes from sickness, from insanity, from defective organic structure (as among the blind and deaf), from poverty that destroys hope and dulls initiative, from bad nutrition, should stimulate this general quickening of the social sense is natural. But just as the activities of the parent with reference to the welfare of a helpless infant are wisely directed in the degree in which attention is mainly fixed not upon weakness, but upon positive opportunities for growth, so the efforts of those whose activities, by the nature of circumstances, have to be especially remedial and palliative are most effective when centered on the social rights and possibilities of the unfortunate individuals, instead of treating them as separate individuals to whom, in their separateness, "good is to be done."

The best kind of help to others, whenever possible, is indirect, and consists in such modifications of the conditions of life, of the general

level of subsistence, as enables them independently to help themselves.<sup>1</sup> Whenever conditions require purely direct and personal aid, it is best given when it proceeds from a natural social relationship, and not from a motive of "benevolence" as a separate force.<sup>2</sup> The gift that pauperizes when proceeding from a philanthropist in his special capacity, is a beneficent acknowledgment of the relationships of the case when it comes from a neighbor or from one who has other interests in common with the one assisted.

*The private and the social self.* The contrast between the narrow or restrictive and the general or expansive good explains why evil presents itself as a selfish end in contrast with an authoritative, but faint, good of others. This is not, as we have seen, because regard for the good of self is inherently bad and regard for that of others intrinsically right; but because we are apt to identify the self with the habitual, with that to which we are best adjusted and which represents the customary occupation. Any moral crisis is thus fairly pictured as a struggle to overcome selfishness. The tendency under such circumstances is to contract, to secrete, to hang on to what is already achieved and possessed. The habitual self needs to go out of the narrowness of its accustomed grooves into the spacious air of more generous behavior.

## 7. THE GOOD AS SELF-REALIZATION<sup>3</sup>

We now come to the theory which attempts to do justice to the one-sided truths we have been engaged with, viz., the idea that the moral end is self-realization. Like self-assertion in some respects, it differs in conceiving the self to be realized as universal and ultimate, involving the fulfillment of all capacities and the observance of all relations. Such a comprehensive self-realization includes also, it is urged, the truth of altruism, since the "universal self" is realized only when the relations that bind one to others are fulfilled. It avoids also the inconsistencies and defects of the notion of self-sacrifice for its own sake, while emphasizing that the present incomplete self must be denied for the sake of attainment of a more complete and final self.

<sup>1</sup>Compare Spencer's criticisms of Bentham's view of happiness as a social standard in contrast with his own ideal of freedom. See *Ethics*, Vol. I, pp. 162-168.

<sup>2</sup>See Addams, *Democracy and Social Ethics*, chap. ii.

<sup>3</sup>Dewey and Tufts, *Ethics*, pp. 391-397.

A discussion of this theory accordingly furnishes the means of gathering together and summarizing various points regarding the rôle of the self in the moral life.

*Ambiguity in the conception.* Is self-realization the end? As we have had such frequent occasion to observe, "end" means either the consequences actually effected, the closing and completing phase of an act, or the aim held deliberately in view. Now realization of self is an end (though not the only end) in the former sense. Every moral act in its outcome marks a development or fulfillment of selfhood. But the very nature of right action forbids that the self should be the end in the sense of being the conscious aim of moral activity. For there is no way of discovering the nature of the self except in terms of objective ends which fulfill its capacities, and there is no way of realizing the self except as it is forgotten in devotion to these objective ends.

1. *Self-realization as consequence of moral action.* Every good act realizes the selfhood of the agent who performs it; every bad act tends to the lowering or destruction of selfhood. This truth is expressed in Kant's maxim that every personality should be regarded as always an end, never as a means, with its implication that a wrong intent always reduces selfhood to the status of a mere tool or device for securing some end beyond itself—the self-indulgent man treating his personal powers as mere means to securing ease, comfort, or pleasure. It is expressed by ordinary moral judgment in its view that all immoral action is a sort of prostitution, a lowering of the dignity of the self to base ends. The destructive tendency of evil deeds is witnessed also by our common language in its conception of wrong as dissipation, dissoluteness, duplicity. The bad character is one which is shaky, empty, "naughty," unstable, gone to pieces, just as the good man is straight, solid, four-square, sound, substantial. This conviction that at bottom and in the end, in spite of all temporary appearance to the contrary, the right act effects a realization of the self, is also evidenced in the common belief that virtue brings its own bliss. No matter how much suffering from physical loss or from material and mental inconvenience or loss of social repute virtue may bring with it, the quality of happiness that accompanies devotion to the right end is so unique, so invaluable, that pains and discomforts do not weigh in the balance. It is indeed possible to state this truth in

such an exaggerated perspective that it becomes false; but taken just for what it is, it acknowledges that whatever harm or loss a right act may bring to the self in some of its aspects,—even extending to destruction of the bodily self,—the inmost moral self finds fulfillment and consequent happiness in the good.

2. *Self-realization as aim of moral action.* This realization of selfhood in the right course of action is, however, not the end of a moral act—that is, it is not the only end. The moral act is one which sustains a whole complex system of social values; one which keeps vital and progressive the industrial order, science, art, and the State. The patriot who dies for his country may find in that devotion his own supreme realization, but none the less the aim of his act is precisely that for which he performs it: the conservation of his nation. He dies for his country, not for himself. He is what he would be in dying for his country, not in dying for himself. To say that his conscious aim is self-realization is to put the cart before the horse. That his willingness to die for his country proves that his country's good is taken by him to constitute himself and his own good is true; but his aim is his country's good as constituting his self-realization, not the self-realization. It is impossible that genuine artistic creation or execution should not be accompanied with the joy of an expanding selfhood, but the artist who thinks of himself and allows a view of himself to intervene between his performance and its result, has the embarrassment and awkwardness of "self-consciousness," which affects for the worse his artistic product. And it makes little difference whether it is the thought of himself as materially profiting, or as famous, or as technical performer, or as benefiting the public, or as securing his own complete artistic culture, that comes in between. In any case, there is loss to the work, and loss in the very thing taken as end, namely, development of his own powers. The problem of morality, upon the intellectual side, is the discovery of, the finding of, the self, in the objective end to be striven for; and then upon the overt practical side, it is the losing of the self in the endeavor for the objective realization. This is the lasting truth in the conception of self-abnegation, self-forgetfulness, disinterested interest.

*The thought of self-realization.* Since, however, the realization of selfhood, the strengthening and perfecting of capacity, is as matter of fact one phase of the objective end, it may, at times, be definitely



present in thought as part of the foreseen consequences; and even, at times, may be the most prominent feature of the conceived results. The artist, for example a musician or painter, may practice for the sake of acquiring skill, that is, of developing capacity. In this case, the usual relationship of objective work and personal power is reversed; the product or performance being subordinated to the perfecting of power, instead of power being realized in the use it is put to. But the development of power is not conceived as a final end, but as desirable because of an eventual more liberal and effective use. It is matter of temporary emphasis. Something of like nature occurs in the moral life—not that one definitely rehearses or practices moral deeds for the sake of acquiring more skill and power. At times the effect upon the self of a deed becomes the conspicuously controlling element in the forecast of consequences (Dewey and Tufts, p. 382). For example, a person may realize that a certain act is trivial in its effects upon others and in the changes it impresses upon the world; and yet he may hesitate to perform it because he realizes it would intensify some tendency of his own in such a way as, in the delicate economy of character, to disturb the proper balance of the springs to action. Or, on the other hand, the agent may apprehend that some consequences that are legitimate and important in themselves involve, in their attainment, an improper sacrifice of personal capacity. In such cases, the consideration of the effect upon self-realization is not only permissible, but imperative as a part or phase of the total end.

*The problem of equating personal and general happiness.* Much moral speculation has been devoted to the problem of equating personal happiness and regard for the general good. Right moral action, it is assumed, consists especially of justice and benevolence,—attitudes which aim at the good of others. But, it is also assumed, a just and righteous order of the universe requires that the man who seeks the happiness of others should also himself be a happy man. Much ingenuity has been directed to explaining away and accounting for the seeming discrepancies: the cases where men not conspicuous for regard for others or for maintaining a serious and noble view of life seem to maintain a banking-credit on the side of happiness; while men devoted to others, men conspicuous for range of sympathetic affections, seem to have a debit balance. The problem is the more serious because the respective good and ill fortunes do not seem to be

entirely accidental and external, but to come as results from the moral factors in behavior. It would not be difficult to build up an argument to show that while extreme viciousness or isolated egoism is unfavorable to happiness, so also are keenness and breadth of affections. The argument would claim that the most comfortable course of life is one in which the man cultivates enough intimacies with enough persons to secure for himself their support and aid, but avoids engaging his sympathies too closely in their affairs and entangling himself in any associations which would require self-sacrifice or exposure to the sufferings of others: a course of life in which the individual shuns those excesses of vice which injure health, wealth, and lessen the decent esteem of others, but also shuns enterprises of precarious virtue and devotion to high and difficult ends.

*Real and artificial aspects of the problem.* The problem thus put seems insoluble, or soluble only upon the supposition of some prolongation of life under conditions very different from those of the present, in which the present lack of balance between happiness and goodness will be redressed. But the problem is insoluble because it is artificial.<sup>1</sup> It assumes a ready-made self and hence a ready-made type of satisfaction of happiness. It is not the business of moral theory to demonstrate the existence of mathematical equations, in this life or another one, between goodness and virtue. It is the business of men to develop such capacities and desires, such selves as render them capable of finding their own satisfaction, their invaluable value, in fulfilling the demands which grow out of their associated life. Such happiness may be short in duration and slight in bulk: but that it outweighs in quality all accompanying discomforts as well as all enjoyments which might have been missed by not doing something

<sup>1</sup>Compare the following extreme words of Sumner (*Folkways*, p. 9): "The great question of world philosophy always has been, what is the real relation between happiness and goodness? It is only within a few generations that men have found courage to say there is none." But when Sumner, in the next sentence, says, "The whole strength of the notion that they are correlated is in the opposite experience which proves that no evil thing brings happiness," one may well ask what more relation any reasonable man would want. For it indicates that "goodness" consists in active interest in those things which really bring happiness; and while it by no means follows that this interest will bring even a preponderance of pleasure over pain to the person, it is always open to him to find and take his dominant happiness in making this interest dominant in his life.

else, is attested by the simple fact that men do consciously choose it. Such a person has found himself, and has solved the problem in the only place and in the only way in which it can be solved: in action. To demand in advance of voluntary desire and deliberate choice that it be demonstrated that an individual shall get happiness in the measure of the rightness of his act, is to demand the obliteration of the essential factor in morality: the constant discovery, formation, and reformation of the self in the ends which an individual is called upon to sustain and develop in virtue of his membership in a social whole. The solution of the problem through the individual's voluntary identification of himself with social relations and aims is neither rare nor utopian. It is achieved not only by conspicuous social figures, but by multitudes of "obscure" figures who are faithful to the callings of their social relationships and offices. That the conditions of life for all should be enlarged, that wider opportunities and richer fields of activity should be opened, in order that happiness may be of a more noble and variegated sort, that those inequalities of status which lead men to find their advantage in disregard of others should be destroyed—these things are indeed necessary. But under the most ideal conditions which can be imagined, if there remain any moral element whatsoever, it will be only through personal deliberation and personal preference as to objective and social ends that the individual will discover and constitute himself, and hence discover the sort of happiness required as his good.

Our final word about the place of the self in the moral life is, then, that the problem of morality is the formation, out of the body of original instinctive impulses which compose the natural self, of a voluntary self in which socialized desires and affections are dominant, and in which the last and controlling principle of deliberation is the love of the objects which will make this transformation possible. If we identify, as we must do, the interests of such a character with the virtues, we may say with Spinoza that happiness is not the reward of virtue, but is virtue itself.

## CHAPTER III

### SOCIAL VIRTUES

#### 8. JUSTICE AND BENEVOLENCE<sup>1</sup>

1. *The relation of the social to the individual life.* Man has social or other-regarding, as well as individual or self-regarding, impulses and instincts. By nature, and even in his unmoralised condition, he is a social being. But this sympathetic or altruistic nature must, equally with the selfish and egoistic, be formed and moulded into the virtuous character; the primary feeling for others, like the primary feeling for self, is only the raw material of the moral life. And the law of the process of moralisation is the same in both cases; the dutiful attitude towards others is essentially the same as the dutiful attitude towards ourselves. For in others, as in ourselves, we are called upon to recognise the attribute of personality. They, too, are ends in themselves; their life, like our own, is one of self-realisation, of self-development through self-discipline. We must treat them, therefore, as we treat ourselves, as persons. The law of the individual life is also the law of the social life, though in a different and a wider application. Virtue is fundamentally and always personal; and when we have discovered the law of the individual life, we have already discovered that of the social life. Since men are not mere individuals, but the bearers of a common personality, the development in the individual of his true selfhood means his emancipation from the limitations of individuality, and the path to self-realisation is through the service of others. Not that we serve others, the better to serve ourselves: we ought not to regard another person as the instrument even of our highest self-development. They, too, are ends in themselves: to them is set the self-same task as to our-

<sup>1</sup>From *A Study of Ethical Principles* (pp. 275-285), by James Seth, M.A., LL.D., Professor of Moral Philosophy in the University of Edinburgh. W. Blackwood and Sons, London, 1898; Charles Scribner's Sons, New York, 1911. All rights reserved.



selves, the task of self-realisation. The law of the moral life, the law of personality, covers the sphere of social as well as of individual duty; and that law is: "So act as to treat humanity, whether in thine own person or in that of another, always as an end, never as a means to an end." We may use neither ourselves nor others. Truly to serve humanity, therefore, is to realise ourselves, and at the same time to aid others in the same task of self-realisation. In serving others, we are serving ourselves; in serving ourselves, we are serving others. For, in both cases, we serve that humanity which must ever be served, and never used.

The life of virtue, even on its social side, is still a personal, not an impersonal life.<sup>1</sup> This is apt to be overlooked, owing to the illusion of the term 'social' and the antithesis, so commonly emphasised, between the individual and the social life. The individual and the social are, in reality, two aspects of the one undivided life of virtue, and their unity is discovered with their reduction to the common principle of personality. The social life is, equally with the individual life, personal; and the personal life is necessarily at once individual and social. We must not be misled by the phrase 'social life,' as if society had a life of its own apart from its individual members; society is the organisation of individuals, and it is they who live, not it. Apart from its individual members, society would be a mere abstraction; but we are too apt, here as elsewhere, to hypostatise abstractions. In reality, society is not an organism, but the ethical organisation of individuals. Obviously, we must not isolate the organisation or the relation from the beings organised or related; this would be a new case of the old Scholastic Realism, or substantiation of the universal. Moral reality, like all finite reality, is, in the last analysis, individual. But while the life of virtue is always individual, it is never merely individual: to be personal, it must be social. If in one sense each lives a separate life, yet in another sense "no man liveth unto himself." A common personality is to be realised in each, and in infinite ways the life of each is bound up with that of all. Only, the individual must never lose himself in the life of others. As a person, he is an end in himself, and has an infinite worth. He has a destiny, to be wrought out for himself; the destiny of society is the destiny of its individual members. The 'progress of the race' is, after all, the progress of the

<sup>1</sup> For definition of personality see *ibid.* Part I, chap. iii.—Ed.

individual. The ethical end is personal, first and last. As the individual apart from society is an unreal abstraction, so is society apart from the individual. The ethical unit is the person.

Thus we can see that there is no necessary antagonism between individualism, truly understood, and socialism, truly understood. Nay, the true socialism is the true individualism, the discovery and the development of the person in the individual. Society exists for the individual, it is the mechanism of his personal life. All social progress consists in the perfecting of this mechanism, to the end that the moral individual may have more justice and freer play in the working out of his own individual destiny. The individualism of the mere individual means moral chaos, and is suicidal. But the individualism of the person is, in its idea at least, synonymous with the true socialism, and the true democracy with the true aristocracy. For social progress does not mean so much the massing of individuals as the individualisation of the social mass; the discovery, in the 'masses,' of that same humanity, individual and personal, which had formerly been discerned only in the 'classes.' The truly social ideal is to make possible for the many—nay, for all, or better for each—that full and total life of personality which, to so large an extent, is even still the exclusive possession of the few. Social organisation is never an end in itself, it is always a means to the attainment of individual perfection.

2. *Social virtue: its nature and its limit.* We have seen that social or altruistic impulse, like individual or egoistic, is only the raw material of virtue, part of that nature which has to be moralised into character. Mere 'good-will' or 'sociality' is not the virtue of benevolence; the natural inclination to help others needs guidance, and may have to be restrained. So true is Kant's contention that natural impulse or inclination has, as such, no ethical value. We have also seen that the law, in the one case as in the other, is found in personality. Each man, being an ego or person, has the right to the life of a person. The true moral attitude of other persons to him, therefore, is the same as his attitude towards himself; and accordingly social, like individual, virtue has two sides, a negative and a positive. The attitude of the virtuous man towards his fellows is first, negatively, the making room for, or not hindering, their personal life, and secondly, the positive helping of them to such a life, the removing of

obstacles from their way, and the bringing about of conditions favourable to their personal development. Here, with the conditions of the moral life in our fellows, we must stop; no man can perform the moral task for another, there is no vicariousness in the moral life. Not even God can make a man good. Goodness, by its very nature, must be the achievement of the individual: each must work out his own salvation. The individual must fight his own battles, and win his own victories; and if he is defeated, he must suffer, and strive through suffering to his final perfection. The moral life is essentially a personal life; in this sense all morality is private. Life lies for each in 'the realisation of self by self'; that is our peculiar human dignity and privilege and high responsibility, and it is not allowed that any man come between us and our 'proper business.' But everything short of this moral interference and impertinence we may do for our fellows. 'Environment' counts for much, especially the social environment; and we can improve the moral environment of those whom we wish to aid. The will may be stimulated by suggestions from another, though no amount of pressure can coerce it. Ideals are potent, and, once accepted, seem to realise themselves; and, especially by our own practice and example, we may suggest true moral ideals to others. In such ways, society can stimulate in the individual, and individuals can stimulate in their fellows, the life of 'virtue. Only, we cannot take the moral task out of the hands of the individual, we cannot even strictly co-operate with him in the execution of that task. Such is the solitariness of the moral life.

3. *Its two aspects, negative and positive: justice and benevolence.* Social virtue, on its negative side, we may call justice, with its corresponding duty of freedom or equality; on its positive side, we may call the virtue benevolence, and the duty fraternity or brotherliness. I use these terms, of course, very generally, to cover much more than civic excellence in the one case, and than what is ordinarily called philanthropy in the other. Whenever we do not repress another personality, but allow it room to develop, we are just to it; whenever, in any of the senses above suggested, we help another in the fulfilment of his moral task, we exercise towards him the virtue of benevolence.

There is the same kind of relation between justice and benevolence in the social life as between temperance and culture in the individual

life. As temperance is the presupposition of a true culture, so is justice the presupposition of a true benevolence. This logical priority is also a practical priority. We must be just before we can be generous: we earn the higher power by our faithful exercise of the lower. This is obvious enough in the case of political action; the philanthropy of the State must be founded on justice, the interests of security form the basis of the interests of well-being. Indeed, the benevolence of the State is really a higher justice. But the principle is not less true of the relations of individuals to one another; here, too, benevolence is only justice made perfect. When the parent, out of a full heart and without a thought of self-interest, does his best for his child, when friend acts thus by friend, or teacher by scholar, what is each doing but striving to mete out to the other the full measure of a perfect justice? More or higher than that, no man can ask from another and no man can give to his fellow. The distinction, though so convenient, is artificial; it is one of those division-lines which, since they do not exist in reality, disappear with a deeper insight into the nature of things. Most pernicious have been the effects of the neglect of the true relation of priority in which justice stands to benevolence. The Christian morality, as actually preached and practised, has been largely chargeable with this misinterpretation. 'Charity' has been magnified as the grand social virtue, and has been interpreted as a 'giving of alms' to the poor, a doing for them of that which they are unable to do for themselves, an alleviation, more or less temporary, of the evils which result from the misery of their worldly circumstances. But this charity has coexisted with the utmost injustice to those who have been its objects. Instead of attacking the stronghold of the enemy—the poverty itself, the shameful inequality of conditions—the Church as a social institution, and individuals in their private capacity or in other forms of association, have apparently accepted the evil as permanent and inevitable, or have even welcomed it as the great opportunity of the moral life. It has been assumed that we must have the poor always with us, and their poverty has been regarded as a splendid field for the exercise of the virtue of benevolence. Yet a moment's reflection will convince us that this virtue cannot find its exercise in the field of injustice: the only field for its development is one which has been prepared for it by the sharp ploughshare of a thoroughgoing justice. Injustice and benevolence



cannot dwell together; and when justice has done its perfect work, there will be little left for the elder philanthropy to do, and charity will be apt to find its occupation gone. When the causes of distress have been removed, the distress itself will not have to be relieved, and benevolence will have its hands free for other and better work. When all have justice, those who now need help will be independent of it, and men will learn at last that the best help one man can give to another is to help him to help himself. It is because we have really given our fellows less than justice that we have seemed to give them more.

For what is justice? Is it not to recognise in our fellow-man an *alter ego*, and to love our neighbour as ourselves? Is it not the principle of moral equality—that each shall count for one, and no one for more than one? And when we remember that the reckoning is to be made not merely in terms of physical life or of material well-being, but in terms of personality; that we are called upon to treat our fellow-man as literally another self, to put ourselves in his place, and to take towards him, as far as may be, his own attitude towards himself,—do we not find that such equality is synonymous with fraternity, that others are in very truth our fellows and our brothers in the moral life? Might it not be less misleading to speak only of justice in the social relations—of negative and positive justice—than of justice and benevolence?

The fact of the essential identity of justice and benevolence suggests that they have a common sphere. That sphere is the social, and, more particularly, the political life. Yet here also there is a distinction within the identity. While both virtues may be exercised in the political sphere, it is of the genius of justice to spend itself upon the community, of benevolence to single out the individual. The State is the sphere of justice, and in the eyes of the State all its citizens are alike—each counts for one, and no one for more than one. The peculiar sphere of benevolence or the higher justice is that of private and domestic life, and of the non-political association of individuals. The characteristically individual nature of this aspect of virtue was recognised by the Greeks, whose name for it was 'friendship.' So far is the conception carried that Aristotle is led to question whether we can have more than one true friend, whether it is possible to stand in this relation of perfect fellowship to more than one individual; for

hardly shall we find more than one *alter ego*, happy indeed are we if we find even one. The modern conception is that of universal love or 'humanity.' But the essence of the virtue is the same in both cases, —brotherliness or fellowship. This conception signalises that intimacy of the relation which converts justice into benevolence, or imperfect into perfect justice. Where justice insists upon the equality of men in virtue of their common personality, benevolence seizes the individuality in each. Benevolence is more just than justice, because it is enlightened by the insight into that 'inequality' and uniqueness of individuals which is no less real than the 'equality' of persons.

4. *Benevolence.* It is in the case of benevolence especially that we realise the necessity of the regulation or moralisation of the original natural impulse or affection. Whether we take the promptings of the parent, of the friend, of the patriot, or of the philanthropist, we see that altruistic impulse is originally as blind as egoistic, and that it needs, no less than the latter, the illumination of reason. We need the wisdom of rational insight into the good of another, if we are in any measure to aid him in the attainment of that good; and all our benevolent activity must be informed and directed by such insight. Without its guidance, we cannot be really 'kind' to another. Unwise kindness is not kindness,—that, for example, of the 'indulgent' parent, teacher, or friend, of blind philanthropy, of indiscriminate charity. The vice of such conduct is that it destroys the self-reliance and self-dependence of the individual so blindly 'loved.' The only true benevolence is that which helps another to help himself; which, by the very aid it gives, inspires in the recipient a new sense of his own responsibility, and rouses him to a better life.

It is amazing how potent for good is such a true benevolence; it seems to touch the very springs of the moral life. By this intimate apprehension of a brother's nature and a brother's task, it may be given to us to stir within him the dying embers of a faith and hope blighted by failure after failure, and to reawaken in him the old high purpose and ideal of his life. The fact that some one else has a real and unwavering confidence in him, sees still in him the lineaments of a complete and noble manhood, will inspire such a man with a new strength, born of a new hope. There was once a purpose in his life, but it has long ago escaped his grasp, and seems for ever frustrated;

what once was possible seems possible no longer, his life is broken and can never again be whole. But one comes who reminds him of that former and truer self, and reawakens in him the old ideal. The way back may be long and difficult; but the sight of the goal, even at such a distance and up such steep, will give the traveller strength for the journey. What does he not owe to him who shows him the open path? Zaccheus, the 'publican and sinner,' owed his 'salvation'—so far as this can be a debt—to One who reminded him that, in his deepest nature and best possibility, he was still a 'son of Abraham'; and others who had fallen lowest, when they heard from the same wise and tender lips, instead of the scathing condemnation they had feared, the words of a deeper insight and a larger hope, "Neither do I condemn thee,"—were filled with a new strength to obey the authoritative command, "Go, and sin no more." It must have been this grand insight, this hand of brotherly sympathy and sublime human hope, stretched out to raise a fallen humanity to his own ideal of it, that made tolerable that teacher's scathing exposure of every hidden evil.

And even in the ordinary course and less grave occasions of human life, we must acknowledge the power for good that lies in a sympathetic appreciation of another's task, and of his capabilities for its discharge. The parent may thus discover in the child possibilities which had else remained undiscovered and unrealised. The teacher may thus discover in the pupil the potential thinker, scholar, artist, and awaken in him the hope and ambition which will be a life-long inspiration. Here is the moral value of optimism and enthusiasm, as contrasted with pessimism and cynicism. If we would help another, in this high sense of helpfulness, we must believe deeply, and hope strenuously, and bear courageously the disappointment of our expectations and desires. The gloomy severity of condemnation, unlit by any ray of hope of better things, which marks the Puritanical temper, will crush a life which might otherwise have been lifted up to a higher plane. What many a struggling soul needs most of all is a little more self-reliance and buoyancy of hope; and the knowledge that another has confidence in him will breed a new confidence in himself. Why leave unspoken the word of encouragement or praise which might mean to him so much good, out of the foolish fear of nourishing in him that quality of self-conceit which may be entirely absent from his character? Aristotle's observation was that most

men suffered from the opposite fault of 'mean-spiritedness' and a deficient appreciation of their own powers.

This true benevolence means getting very near to our fellow-man, becoming indeed his fellow, identifying ourselves with him. It means the power of sympathy. We are apt to be so external to one another, and 'charity' is so easily given: we must give ourselves. We must put ourselves alongside our fellow; we must enter into his life and make it our own, if we would understand it. For such an understanding of another's life, such a right appreciation of another's task, is not easy. It is apt to seem a gift of moral genius, rather than a thing which may be learned. The perfection of it is found in love and in true friendship, where a man finds an *alter ego* in another; and perhaps, as Aristotle says, it is only possible to have one such 'friend.' But there is a great call for the quality, in some measure of it, in all the relations of life; without it, no true benevolence is possible.

## 9. JUSTICE<sup>1</sup>

The appeal for "Justice" is urgent in the social literature of the day. It is one that goes straight to every human heart. No one who has read it can forget how Dante tells of the poor widow who convinced the reluctant Emperor Trajan that he must do her justice before he stirs from the spot.

What is the nature of this appeal? What is its precise demand? How does it find its place among other human necessities?

It seems to be based on the fact that human nature lives in a multitude of individuals, who have a common quality which demands that they should be treated by a common rule. Thus the cry for justice is effective at once through a direct comparison. Whenever a difference of treatment appears, Justice will ask "Why?" It is always the opposite of dealing with human beings differently without a reason for the difference. So Justice has to do with "rights." Right is the rule, the straight or undeviating line (*droit, diritto*). It is just to protect all men's life and liberty, because it is the rule, the right, for human beings. What makes it the right or rule? That, I hope, we shall see

<sup>1</sup>From *Social and International Ideals* (pp. 195-211), by Bernard Bosanquet, M.A., LL.D., D.C.L., Fellow of the British Academy, author of *The Philosophical Theory of the State*. Copyright, Macmillan and Co., Limited, London, 1917.



directly; but that it is recognised as the rule is what makes the doing of it just. Injustice, in the simplest sense, is to recognise a rule, but only to follow it in some cases and not in others.

Plainly, there are different rules or standards. The letter of the law is not the only rule; Shylock had law apparently on his side and then against him; both, I should think, we all feel were unjust by the better rule. *Summum jus, summa injuria*. The extreme of law is the extreme of wrong.

So Justice has two factors: one constant, the other variable. First, it is keeping the rule you profess to keep and allowing nothing to interfere with its application. Secondly, it depends on what rule you recognise. Some rules are shallower, some are deeper. But with all, if you profess them, it is so far unjust to depart from them.

If it is ordered that every tenth man is to be shot, it is unjust for the officer carrying out the order to shoot a ninth man and spare a tenth man for private reasons.

But, also, such an order may be itself called unjust as compared, e.g., with a more adequate rule for treating human beings, such as to proceed only on proved individual guilt. The former is, then, seen to be a rule which is itself a single large violation of the rule, and so unjust. You are not even professing the rule which you are forced to admit to be the rule you ought to profess.

We must distinguish the two forms of injustice. If you make arbitrary exceptions to your rule, you break the rule, and so far as it is concerned, you are unjust, though you may be just by a higher rule. You are treating in different ways cases which your rule calls the same—e.g., again, if you make exceptions at your discretion in levying a universal tax. You can only be just by your rule if you treat all cases under its terms in the same way.

But there is another alternative: you may not break the rule, but the rule itself may break down by proving itself unjust. This is when it treats in the same way cases which for its purpose are different—e.g. if it levies the same tax on people who can afford to pay and people who cannot.

The reason for insisting on this distinction is to show how a rule can break itself, so to speak, by ordering very dissimilar cases to be treated in a similar way; and that this is at bottom the same injustice as breaking a rule by treating its similar cases in a dissimilar

way. If you treat two quite different sets of cases in a similar way, you are really treating them differently for the purpose of your rule; e.g. if you give the same amount of food to a child and a man, the purpose or controlling rule being to nourish each sufficiently. In the end this "breaking down" will show how Justice proves itself an imperfect point of view.

It is noteworthy that Justice has a good side even in strictly applying bad laws. They would seldom survive if they were applied in their full rigour. President Grant said to the United States Congress: "If you make bad laws I shall enforce them."

Equity may seem to be contrasted with strict justice, as if it were not a rule. But it only means a more adequate rule; one that goes deeper into the cases. No one would call it equity to treat two quite different cases similarly.

Then we come to this: Justice lies in impartial distribution of advantages and disadvantages to individuals. In that sense it is "individualistic." It depends altogether on there being individuals who have claims to similar treatment. The claim is urged, we said, by direct comparison of cases. A is rich, B is poor. Why? So it is much more impressive at first sight than a claim like that of patriotism or the common good, which requires you to give all you can and not compare your burdens or your advantages with those of others. These are demands on behalf of a unit which is not present to the bodily eye. Justice, as commonly spoken of, is a demand on behalf of a case which strikes the eye forcibly.

Justice is certainly not the highest point of view; but if it is in a sense the lowest of social claims, that is a way of saying that it is the basis of all social dealing. A universal human claim may be transformed by higher claims, but cannot be cancelled. Individual human beings have to be taken account of; each is one among others, having a bodily and spiritual life of his own, which cannot even be genuinely sacrificed or surrendered unless it is first his own to sacrifice or to surrender.

We saw there were two factors in Justice: first keeping the rule—that needs no further comment—and, secondly, the rule itself which is to be kept.

There are many possible rules, we saw, lower and higher—i.e. less and more adequate, according to the degree in which each of them

takes account of people's circumstances and capacities, and so is less or more likely to be adequate—i.e. not to break down.

We will consider some of these. They are what express people's different ideas of the standard according to which the individual's right to be recognised and considered should be given effect in a human commonwealth.

Equality. "All men are equal"; usually "equal by nature." This sounds like an attempt to make a rule out of the mere need of having a rule. Deal in exactly the same way with all men, and then you are sure of going by the rule you profess, which we saw to be the essence of Justice.

But we saw that a rule of Justice can itself break down if you apply it without modification to cases which differ beyond a certain point. And the equality of man was never asserted by serious thinkers in the sense that all men were so equal as to demand the same treatment all round. It was asserted with a perfectly good meaning by Roman law, by the English seventeenth century, and by Rousseau. And by being taken to mean too much, it has been deprived of the perfectly sound meaning which really belonged to it. No one meant that all men were equally good or equally capable. What they did mean, and rightly, was that all rational beings were "equal" in having within them a principle of self-government. Sooner or later the thinking creature will rebel against mere force. He will evade, or resist, or question it. Equality in this sense, as was lucidly explained, say, by Hobbes or Locke, is one with freedom or reason. It is the quality of man as such. The capacity of self-government is in him, and, on the whole, it will come out. He will, in the end, accept no law but one which recognises him, on the same footing with others who have the same capacity, as making it or assenting to it. The domesticated, I believe, is the highest animal, but the slave is the lowest man.

It is a practical and disputable question how far sheer equality may be pushed, and on what lines. It is plain that there cannot be all-round identity of function, at any rate in a civilised society: and, therefore, the apparatus possessed by individuals for their functions, what we call property, must be different. But this by itself does not suffice to prove that there could not possibly be, for example, equality of incomes. In as far as it is impossible, this seems to be a corollary of permitting free acquisition of property. We shall return to this.

As to the general problem of equality and similarity in a community, it is well to keep in mind two texts of Aristotle, "No community can be constituted of similars" and "A community should be constituted of equals and similars so far as possible." Rousseau remarks that if equality is impossible in modern society, that is all the more reason for trying to promote it. There seems to be something in this. And then we shall see that some inequalities may be and ought to be ignored—i.e. ought not to affect power or prestige. That is a suggestive topic.

But it is really common ground that all-round equality is a rule which breaks down, and some kind of proportion has usually been advocated as the standard of Justice; that is, equality in the shape of equality of ratios; so that advantages permitted to individuals should remain in the same ratio to some other term, some feature found in the individuals. Plato and Aristotle are fond of insisting on this, that true equality is equality of ratios—i.e. proportion. The worst inequality, they say, is equal treatment of unequal terms—e.g. the same lifting force to different weights, or the same taxation to different taxable capacity.

We will look at some of the proportional standards of Justice currently discussed.

Advantages proportional to moral excellence. Existing society is often criticised for not fulfilling this standard; it is said not to bring to the top a good ethical type. In general it is a conclusive objection to such a standard that it cannot possibly be applied by man. There is no safe moral judgment except our own on ourselves, and not really that. You may say, "It must be a bad system that brings, e.g., place-hunters to the top." But, first, does it? Can we know men's motives? And then, supposing it does, the men's immorality does not seem the right reason for condemning the system. Because many other faults are quite as immoral as place-hunting, faults which we should not think mattered nearly so much in a statesman—e.g. unkindness to one's wife. So it is not the mere immorality we object to, it is something else.

We seem to get nearer to it if we say "Advantages should be proportional to contributions to public good." The public good does seem a possible standard. But the same question recurs. Can we really judge what are the greatest contributions to the public good?



Are we to go by labour expended or by value attained? It seems hardly possible to find a single standard by which to judge. You may have immense labour with very little value that we can detect, and great value almost by luck. A recognition of the individual on this basis would be arbitrary and uneven. And, in case we agreed on the really greatest contribution—e.g. the work of a great poet—are your “advantages” comparable with it or suitable to it? All you can give—rank, wealth, and power—seem too little; yet so alien in character to the poet’s service as to promise disaster both to the recipient and to the community.

Proportion to the capacity for acquisition. This is alleged about and against our present system. Of course, it must not be assumed that all acquisition is at others’ expense; it may be so, or may be the instrument of acquisition to them also.<sup>1</sup> It has been pointed out—e.g. by Durkheim—that in an old society all forms of contract are more or less socially determined, so that acquisition is more or less constrained toward the public good.

Waiving this for the moment, the rule has two merits. It can within certain limits be really carried out, which cannot be said of the others we have considered. And it is compatible with an automatic system of freedom in appropriation, avoiding continual discretionary interference, which is almost impossible in a huge modern community. It seems worth while to pay a high price for an automatic arrangement; but, of course, some prices may be too high.

Proportion to necessities of individuals with a view to the realisation of human capacity in them. This seems to unite many of the good points of the other suggestions, and to be fairly workable. We should note the substitution of “necessities” for “merits,” because necessities can be judged and merits cannot. And the former demand adaptation to the type of function, which the latter overlooks. Proportion to merits, even if possible, neglects the question whether any purpose is promoted by such an assignment. It may frustrate its own apparent aim. Advantages which the community can command are instruments, each of which has its special value for some special end, and should be used in view of this. Power, e.g., may be obviously an unfit attachment to ethical merit. But if you say not “merits” but

<sup>1</sup>For further discussion of this point see *Social and International Ideals*, pp. 229–249.

"necessities," it is different. Power, e.g., is necessary for certain social functions, and so, perhaps, is wealth. And note the substitution of "human capacity" for "public good," avoiding the possible error of measuring by de facto contribution to public service, which may be much short of a true human capacity. There is always the danger of dropping into the argument which Miss Austen so delightfully caricatures in *Sense and Sensibility*, proving that people who have little must need next to nothing. "What does a man need to make him a good scavenger?" But, then, it is also his function to be a man. The reference to "human capacity" bars that evasion. Only, if the rule is to hold, the word necessities should be construed to include the objects of activity as well as its instruments. Of course, in a sense they are its instruments, or its material. We must not rule out ab initio the desirability of, say, private ownership of capital on a large scale as a field of charge and responsibility.

Looking back on all these suggested statements which more or less bear the character of Justice, we note a characteristic peculiarity in all of them. None of them can be said to be laid down or constituted or contrived exclusively for the sake of Justice, except perhaps the rule of equality, which is chimerical. We saw that no doubt a rule can be just or unjust in itself, and not merely in its impartial or partial observance, in as far as the cases it deals with in a similar way are really similar or really dissimilar. But this being just or unjust is not in general the reason why the rule is made. Even in those social formulæ, public welfare is also aimed at; but in ordinary rules this is clearer. A tax, e.g., is imposed in order to get money, not in order to treat people fairly or unfairly. It is a fault in it if it is unjust, because it contradicts the claim of human beings to be treated according to reason and right—to be treated similarly where the reason is similar, and dissimilarly where it is dissimilar. But that is a condition of all treatment of human beings, not in general the purpose of it, or not the immediate purpose.

You can have rules in ordinary use made for the purpose of Justice, I think, in two senses. Often you have them made by way of amending rules made for quite other purposes, which are seen to involve Justice. When all men of military age were first appealed to to enlist, the purpose was, I suppose, purely and simply to get soldiers. Then it was noticed that this rule put very dissimilar cases on the same footing, and it was urged that there were some who ought to be

taken before others. So a new rule was made that "a certain class must go first," and this was made, I suppose we might say, for the sake of Justice—i.e. to carry out the proportion between disadvantages and the power to bear them, by neglecting which the first invitation, considered as a rule, seemed to break down. But still, all this was only a condition imposed on the positive purpose of the whole arrangement, which was to get soldiers. The condition was imposed by the inherent claim or right of human individuals to reasonable treatment—i.e. similar for similar, dissimilar for dissimilar. It is, we saw, the human being's nature to ask why: and if you can give him a reason which is to the point, he is satisfied. But it is his right to be satisfied, and if he is not satisfied he will be dissatisfied, and argue or rebel according to his character and the case. In other words, the management must spring, directly or indirectly, from himself. That is his equality, freedom, reasonableness, the "quality of man."

Then later it came to be thought that the attempt to distinguish cases was too complicated, and that equal sacrifice for all would be best attained by a uniform rule, a rough Justice. All this discussion about Justice may have been desirable or necessary; but it was really a sort of appendage to the purpose of the whole proceeding—viz. to get soldiers.

In still the same sense it might be said that certain parts of the civil and criminal law are specially instituted for the purpose of Justice. I mean all those arrangements which are intended to obviate bias or corruption in judge or jury, or to secure that a poor suitor shall not be placed at a disadvantage. But it does not seem that Justice is the primary purpose of the whole system of law, because every law, excepting those which guard against corruption and undue influence, must surely have its primary purpose in some particular good to be secured or evil to be repressed, and these purposes cannot be directly got under the head of equality or fairness between man and man. The law, if I am right, exists not for the sake of Justice, but to make certain transactions possible which men are found generally to demand—e.g. transactions between landlord and tenant; or, again, to prevent certain nuisances—e.g. smoky chimneys. But such laws being necessary to life, it is a defect in them if they are not both just and justly administered. You may say that all law is there

to maintain rights, the rules of fairness between man and man; and so is aimed at Justice. But still, there is always the special motive for every law, which is its primary aim.

There is, however, another sense in which the whole system of social and political institutions might be said to aim at Justice, and that is if we allow ourselves to use the conception of "Ideal Justice."

For instance, a newspaper said, in commenting on the problem of the married men, "The problems which face us cannot be solved on any principle of ideal Justice." I presume it meant that it was practically impossible to frame a rule or a set of rules which would provide differential treatment for every different case. The social call was imperative, and furnished a rough rule of Justice—a sort of social lynch law—because there was a very large definite group, those capable of military service, who came under it quite simply. But an ideal Justice—that is, a comparative weighing of the difficulties of every individual case, and a nice adjustment of the obligation to serve to every inequality of situation and of mental and bodily fitness—that was an impossible thing. The rough Justice of the social necessity must in the main be acquiesced in.

Still, the newspaper implied that there is such a thing as ideal Justice, though it is very difficult to realise. You might take the whole social system as an attempt to do this—to arrange that for every difference or distinction in human capacity which seriously affected anyone's function and happiness, there should be found a different external furniture such as to adjust itself to that difference of function or capacity and give it scope. And then ideal Justice would practically coincide with a perfect social system. Everybody's advantages and burdens would be exactly apportioned according to what he needed for the function suitable to him. This would be our completest rule, but carried out with an impossible perfection. And still the function comes first and dictates the whole arrangement.

Now, if you let yourself be carried on and on by the demand for Ideal Justice and by watching how simple rules break down or break themselves, into demanding the right conditions for every function, where will you be at the end of it? You will have set up a new rule for every serious difference in individuals, and you will have got a complicated social system involving all sorts of reservations and distinctions, so that the character of a general rule will



have vanished from it, and it will have taken on an appearance opposed to primary Justice—to any simple rule of treating people alike. We saw this beginning in the case of the married men's service, and how the attempt seemed likely to be thrown over as too difficult, and the first simple rule gone back to. Ideal Justice, we often say, is only for God to use, not for man. Or we say it is ultimately one with mercy or love or regard for the public good.<sup>1</sup> "Tout comprendre, c'est tout pardonner." Every strength and weakness is allowed for. It is not what we commonly mean by Justice.

So we find that practically there is a recognised opposition between the maxims of common Justice—the general rule of equal treatment of individuals—and the maxims of political efficiency or the public good or safety, or love, or mercy—anything in which the individual is absorbed. "Fiat justitia, ruat coelum" (Do Justice, if it ruins the country); "One to count for one and never for more than one"; contrasted with "Salus populi suprema lex" (which has won a bad reputation as the tyrant's plea; cp. Committee of Public Safety in the French Revolution), or "Ye are members one of another"—i.e. thinking of yourselves as separate particular individuals making claims, you have only a very imperfect apprehension of what you really are.

It is a strange meeting of extremes in many cases; Ideal Justice—the supreme duty—or a pressing emergency, or a strong devotion to the community, or any overwhelming purpose, may make a rough call on the individual, very much like that which the first rude sense of lynch justice makes. The difference is that rough-and-ready Justice does not know what the right claim on the individual is, and lumps his case along with very dissimilar cases, as in taxation, which is unfair merely through the ruler's lack of economic knowledge or experience; while Ideal Justice, or the passion for social or human service, may know well enough the inequality it is imposing, but it does not care to insist upon it in presence of more important issues. If you can do it you must, never mind whether some one else could do it as well; and therefore, again, the man who recognises it finds its demand the hardest and sharpest claim he can conceive. His Ideal Justice holds that he has done nothing while there is anything left for

<sup>1</sup> These three principles are alike in scorning equality. They ask you for all you can, not for the same as your neighbour.

him to do. We are unprofitable servants. But, then, with this you have given up what is peculiar in Justice. You have left the world of claims.

This is why, when you approach the great thinkers on the topic of Justice, you are apt at first sight to be puzzled. Instead of finding some direct rule operating by comparison of cases between man and man, you are met by such a sentence as this of Rousseau:<sup>1</sup>

C'est donc dans la loi fondamentale et universelle du plus grand bien de tous, et non dans les relations particuliers d'homme à homme, qu'il faut chercher les vrais principes du juste et de l'injuste. . . . En un mot, il y a mille cas où c'est un acte de justice de nuire à son prochain, au lieu que toute action juste a nécessairement pour règle la plus grande utilité commune; cela est sans exception.<sup>2</sup>

That really dissolves away what we commonly call Justice. In the same way we find Plato, in his treatise "On the Commonwealth or on Justice," identifying the law of Justice with the discharge by every member of his function as prescribed by the purpose of the whole, and he embodies within his systematic plan the hardest and sharpest contrasts of mode of living—the severest rule being assigned to the governing class to whom, in a sense, the whole city belongs. If you complain of this, he says in a very famous passage, it is like complaining that in colouring a statue you paint the eyes, which are the most beautiful feature, not with purple, which is the most beautiful colour, but with black. For you must not make them so beautiful that they are not like eyes at all. And so it is the whole system that dictates his functions to every individual; and the law of Justice is that he should be what his special duty demands, however hard or humble may be the place so assigned. We may add that every sovereign community (and, as is commonly held, the ultimate ruler of the universe) reserves to itself the right of pardon, that is to say, the right of treating the direct justice of general rules as not being the final or highest law.

All this, it will be said, is commonplace and familiar, and has to a

<sup>1</sup>This is no doubt directed against Locke, who had maintained that the law of justice and reason was one with the golden rule, "Do to others—." Rousseau has pointed out that, strictly interpreted, this will not hold. It would, for instance, not allow a judge to do his duty. The true end must operate harshly in some cases.

<sup>2</sup>First draft of *Contrat Social*, Vol. II, chap. iv. Vaughan's *Rousseau*, chap. i, p. 495.

great extent been perverted, as in the doctrine of *salus populi*, to be a mere plea for tyranny, or in the most recent times for the absoluteness of the State, or of such a principle as nationality, in opposition to the rights of simple humanity whether within or without a given society. All this has its truth. I am merely making use of this recognised opposition to enforce the nature and urgency of our problem—which lies in the truth that the breakdown of simple rules is always inevitable, carrying you beyond the simple, direct justice of comparison of individuals; while in complex systems and high imperatives of public good or something even greater you have a goal to which you are obliged to go forward, but in which what we commonly mean by justice is too liable to be submerged without good reason, just because it is destined in the end to be transformed with the best of all possible reasons. This best of all possible reasons, if I am challenged to state it plainly, is that in the end the individual's true nature lies beyond his visible self—e.g. in religion the individual, as such, is absorbed. A "claim" becomes blasphemy. But, I repeat, I am not using these high principles to support one contention against the other, to advocate, i.e., the absolute State against simple human justice. I am using them only to illustrate the difficulty and urgency of the problem in which all social dissatisfaction probably has its root—the problem of simple individualistic justice over against the imperative public welfare. The lines of solution which our discussion suggests appear to be two. In the first place, the claims of individuals based on Justice must be recognised in the structure of any social system which is to be satisfactory; and although by proportion, and not by sheer equality, yet by proportion to a standard which is necessary and unambiguous, and affords the minimum scope for using the public safety as a tyrant's plea. In the second place it is quite impossible to avoid recognising that there are higher claims than that of simple justice to individuals as such, whether we find these in the transformation of a direct rule of similar treatment into Ideal Justice, or in those greater commands before which the individual repudiates his separate claim and even his separate being. Only it is necessary to remember, as we saw above, that in order truly to sacrifice himself a man must first have possessed himself. It is true in the most literal sense that justice comes before generosity, though not above it. A man can only surrender what is recognised as his.

10. TRUE AND FALSE IDEALISM<sup>1</sup>

The word "idealism" is something of a spell. It possesses the magic of a spell, and its danger. All these great watchwords of humanity, that represent predominant leanings and accumulating histories of man's mind, have in them something of an enchantment. When we use them we are drawing upon powers that are greater than our own, and we are liable to the fate of the wizard's apprentice who roused immense forces which he could not direct or control. Idealism is a word to conjure with; but a wizard who does not know what he is about is dangerous to himself and others.

The magic of idealism lies, I suppose, in its promise of victory for the human mind. Somehow mind is to triumph; to subdue the "real" or the "actual." It is to achieve the best we can think, to make a new world.

But danger lies in all these expressions which indicate a contrast: good and evil, beautiful and ugly, true and false. They seem to indicate a battle, but they may indicate a flight, and often there is really a flight where the victory seems to be surest. Take, for instance, a "truth" that leaves outside it, standing and unexplained, all the falsehood in the world. Such a truth may seem militant and triumphant, but really it can have very little range and very little strength.

I will give an instance of the spirit of true idealism:

Have we ever noted the stages of our "comprehension" of a great city? When I was a boy I was taken to hear Lord Shaftesbury speak, and, like a boy, I remembered only one thing he said, an anecdote.

He said that when he first came to London a thing which soon struck him was that there were parts of the pavement that dried after rain much sooner than the rest. These were mainly, he soon noticed, at street corners, and then he saw that they were before the bakers' shops. This put him on inquiring into the conditions of the underground bakeries and of the people who worked in them. That was one route which took him into the heart of things. And all of us have in our own way passed through a similar training. Every one must,

<sup>1</sup> By Bernard Bosanquet, M.A., LL.D., D.C.L. Adapted from *Social and International Ideals*, pp. 84-96. Copyright, Macmillan and Co., Limited, London, 1917.



more or less, I suppose; though the interests that guide it must be different in kind and intensity. When they are wide and intense they lead to a true idealism. I mean that when we first begin to take notice, the great city is perhaps just the frame of our business and pleasure. The streets that take us from one to the other are meaningless, insignificant to us, but then gradually—from one suggestion or another, from one starting-point or another—our insight is awakened and our interest expands. We become able, more or less, to interpret the look of the streets and of the people. The walls become transparent to us; we see through them into the homes, or no homes, and become alive with the great life around us. We see the weakness of the poor and their strength; their goodness and courage and fun. I don't think I ever knew a really good social worker who had not the gift of sympathetic humour.

The life which we have learned to respond to, and to feel ourselves a part of, imposes its purposes and standards upon us; we are united with it in its dangers and in its hopefulness.

Now it is a feeling of this kind which suggests itself to me as the path towards a true idealism of social work. Note how Mr. Stephen Reynolds has recently spoken of the cruelty of intellectual people. The best which we hope for must spring out of the life we are learning to know; it must not be brought to it or stuck upon it from without. We must learn from the people before we can teach, and as a condition of teaching. More especially we should know the life of the working people at their best and strongest, or else we can have no conception of what it is that we want them to be.

This is what I call idealism; when, instead of turning away from the life around us, we have so learned it that it speaks to us at every point, and the streets, and the houses, and shops, and people have all "come alive" to us, and indicate human wants, and hopes, and powers.

Our main point is, then, that idealism is not an escape from reality; but, first, a faith in the reality beneath appearances, which, secondly, works by "comprehension," and not by opposition, and confers, thirdly, a power of transforming the appearance in the direction of the real reality.

You often begin, I suppose, by remarking a pale child at a school. Then you try to pierce beneath this surface fact and work the matter out, till you have a whole network of conditions before you, by deal-

ing with which you may be able to rescue a whole family from some misfortune which is affecting them all, or from some foolish habit; and to help them to do what you find they really want. A man must be saved, some wise writer has said, on his own decalogue, and not on somebody else's.

We should observe that true idealism is optimistic, because it grasps things, and does not leave them outside to become a terror. False idealism, sometimes called "pure," "lofty," "exalted," is pessimistic, because it is conscious of something which it has not the courage to face and overcome. Plato has a joke against this kind of idealism, which, oddly enough, people are for ever ascribing to him. He depicts an over-zealous disciple chiming in to Socrates' praise of astronomy, with the addition that it is a study which leads the mind upwards—to a higher world. Socrates answers that the question is whether you use your intelligence or not; and if you do not do this, your mind will not be looking upward, even if you float on your back in the sea.

So, with this incomplete idealism, we have a wave of pessimism in England to-day—almost always in people who are not active social workers. All through life the weaker mind recoils from what it will not grasp. It is so much easier to condemn than to comprehend. We have an output of pessimistic fiction, and then a description of the state of England founded upon it; what Plato would call, I think, two removes from the facts.

One point in this prevailing temper is well worth reflecting upon—the use made of the idea of justice. Almost all pessimism rests on the thoroughly individualistic question: Why this particular suffering? in the sense of asking, Is this man's suffering due to this man's fault? The novels are quite full of it; after the manner of "Did this man sin, or his parents, that he was born blind?" We should note the answer, which they do not give. It was that the works of God should be revealed in him.

Justice, of course, may mean that the best should be done for every body and soul that they can receive; and, as a rule for our action, is in this sense obviously right. But to the popular pessimist it means: "The world is all askew if any one suffers, except by his own fault"; and this principle, the root of bad individualism, would make man's life as cheap as beast's—nay, very much cheaper, for the beasts will on occasion suffer for each other. We should rather think of the great

idea which, as Professor Bradley tells us, occupied the mind of Keats, that the world is a place for the making of souls; and consider what part the suffering not by one's own fault may play in that.

Our conclusion then, so far, is this: Idealism is not the power or habit of escaping from, or, in a customary sense of the words, raising oneself above reality. It is the power and habit of diving into the core of appearance, until the real reality discloses itself. Its appropriate epithets are not so much "pure," "lofty," as "thorough," "comprehensive"—the latter word in its double sense of inclusion and understanding.

This idealism is not a matter of the dreaming imagination; but of what Ruskin once called the penetrative imagination—what Wordsworth was unmatched in. "Love had he seen in huts where poor men lie."

A word about the kind of emotion, the passion or enthusiasm, that goes with true idealism.

Notice that we are quite right to be modest about our personal work, our own performance; but we are not right if we entertain a discouraging idea of the rank and quality of our work. In fact, the higher the idea of it that we cherish, the more personally modest we shall tend to be. But it is not right to admit, or to pass without protest, any notion that our work goes along with a cold heart and a lack of human love. There is really a point here in which explanation may be of use.

There is a vulgar prejudice, which appeals to all of us in our weaker moments, that it is one thing to be reasonable, and quite another thing to be full of love or devotion. This is wholly false. It arises from taking the terms compared at their most commonplace level; reason, perhaps, as addition and subtraction, which really have only a little emotion, because they have only a little reason; love or devotion as blind desire or foolish sentiment, which again have only a little reason, because as emotion they awaken none of the depths of our nature. Foolish sentiment goes very well with false idealism. Neither of them need any strength or effort; they have nothing to comprehend, nothing which feeds their ardour by being overcome. But what is so cheap cannot be really dear.

If you go to any of the world's great men, you do not find them talking like that. What you find is that they bring together reason

and love in a way that puzzles us, though we find it true in proportion as we are anywhere near doing our best. The two moods come together in the yearning for completeness, for the escape from contradiction; the longing to find something which achieves or expresses the consummation which we want. We do not know, indeed, what it is we want. But the working of reason is just the way we build it up or track it out; and feeling is the response of the whole mind and body—the joy or depression, the sense of life or of failure to live, which goes along with this seeking, and with the expansion of finding or the privation of failing to find. And this feeling, this aspiration, is good and valuable in proportion as it means a vitality of our entire soul, an utterance of all that we want. The yearning for completeness, in a word, is at once the spur of logic and the wings of love. Plato called it, in both senses, "Passion" (Eros). But there is something more, and it bears on our practical difficulties. To do or to feel things thus completely is exacting work. We are not always up to it. And then it may seem rather flat; that is to say, we may feel rather flat in presence of it. Mountain-climbing is a fine thing, but we are not always in the mood for it. And this is why we may find ourselves dull and cold, not merely in presence of addition and subtraction, but in presence of very great works of reason and of passion. We cannot get at them. We are like the people who mock at classical music—so dull, they say. That is literally because it has more emotion in it than they are able to receive. Give them a music-hall tune and they would be happy. But, of course, in a great work of a great master there is actually present immensely more of what they want; but it is like a food that a man cannot digest, it is too much for them and they cannot receive it.

So people are always telling you that primitive language, or primitive songs or primitive sketches, are so much more "expressive," or have so much more feeling in them, than the language, or music, or art of civilisation. Or a savage blind desire seems as much more passionate than the devotion of an educated mind. It is the old story of preferring the noble savage to the civilised man. Such things are easier to get hold of because there is so much less in them.

The whole problem may best be explained by a comparison with fine art. Many years ago a friend told me that I could not think of Charity Organisation Society work in an artistic light. The remark



cut so wholly at the root of all my convictions that I could never forget it. \* [Compare Part IV, Chapter XXVI.]

What it meant, I take it, was that first-rate social work seems to some people (and perhaps to ourselves when we are feeling flat) cold and dull, hard and austere, dirty and ugly. It is so full of planning, contriving, carefully observing, sticking to the point, severity, exploring unlikely corners for a ray of light or hope.

But all this is just like the austere demand of great art. It springs from the same cause; which is, that a great eagerness or a great vitality demands to construct something which is careful and complete, and precise and well-ordered throughout. A blind desire smothers and chokes utterance; a loose sentimentalism issues in nerveless and sloppy productions. But a really strong and healthy emotion demands for its embodiment an orderly variety, a precise and careful fitting of part to part, the accurate and living logic that constitutes the austerity, which is an aspect of all great beauty. Let me read a passage from a writer who stated all this far better than any one else could state it.<sup>1</sup>

What seems to me to be true . . . is that feeling is worthless or precious in proportion as it is not or is translated into something which by an extension might be called action. The ordinary form of trouble about it . . . is that either I feel, and nothing comes of it, or I do, and there is no self, no life, in what is done. . . . But it is true—isn't it?—that action is good just according to the amount of feeling which, speaking chemically, is set free in it. The most perfect illustration seems to me to be art. In any art, the more artistic the work is, the more form is there—i. e. the more measurable, definable, calculable is it—the more rational or intellectual. Yet, on the other hand, everybody since the world began has associated with art, strength of feeling and unconsciousness of effort. A great piece of music can be taken to pieces like a clock; a great poem, compared with any other piece of language, is intensely artificial; and yet the amount of feeling which they represent is stupendous when compared with the song of a bird or a simple story. And this relation of feeling seems to hold good both of the artist and of his public. Nobody doubts that artists are more emotional than other men; nobody ought to doubt that they apply more intellect than other men. And as to the audience, I think what you say is frightfully true, that if you go to art to get your own feeling reproduced, you find it useless and flat, just because mere feeling can't find expression, and your feeling

<sup>1</sup> Nettleship, *Philosophical Lectures and Remains*, chap. i, p. 60.

must be, at any rate potentially, endowed with form before you can be emotionally receptive to real form.

Doesn't the same apply to action in the ordinary sense? A strong man is always a man who feels strongly, and who can get his feeling out; and it may seem fanciful, but as far as I can see, if you are asked to describe action, you have to do it in some such way as you would do in the case of art. I mean any act, like any work of art, is measurable in time and space, and the more of an act it is, the more measurable is it, the more form there is in it.

Does all this sound mere pedantry? I do not know; but it seemed to me that it might help to cut up by the root a dangerous and recurrent fallacy, that which arouses the fear of measurableness and co-ordination and precision in social work.

This fallacy is a great danger. For our social work only lives in the doing, and changes if and as our faith and courage change. If a reader thinks George Meredith dull, or prefers Ouida's tales to *Anthony and Cleopatra*, he can do little harm, except to himself. Fortunately, so far, Meredith and Shakespeare are dead, and he cannot get at their works to put his own faint-heartedness into them. But with our social work, if we let ourselves be over-persuaded that it is hard, and cold, and dull, because it is precise and systematic; why, then we shall make it so. Wordsworth, we are told, spoilt several passages in his poems by changing them to meet his friends' objections; because his friends could not understand the poetry of them. That is what we are being constantly urged to do; to change something essential in our work, not in the way of growth, to remedy any defect exhibited to us, but to bring it down to the minds of people who will not take the trouble to get abreast of it.

"Precision," you know; "you can't have feeling and the passion for humanity if you will be so precise." Why, what is the precision of our case papers, say, to the precision of the rhythm of a great poem, or to the adjustments of the parts of a flower? No great feeling can be uttered, nothing can really live and be strong, without extreme precision of adjustment. This is the simple secret of Aristotle's doctrine that virtue lies in an adjustment governed by a right ratio. We all know it—we know how a secret stinginess or jealousy spoils the act of generosity, or ostentation or evil temper the act of courage. In some one of its numerous adjustments to external circumstance the

imperfect motive betrays itself and the act breaks down, rings false; we give, for instance, too much or too little, or in the wrong way, or at the wrong time, or to the wrong person. You only get the perfect act when it is "the flower and native growth of noble mind."

## 11. RIGHTS, DUTIES, AND THE PROBLEM OF EXPEDIENCY<sup>1</sup>

All moral laws, I wish to shew, are merely statements that certain kinds of actions will have good effects. The very opposite of this view has been generally prevalent in Ethics. 'The right' and 'the useful' have been supposed to be at least capable of conflicting with one another, and, at all events, to be essentially distinct. It has been characteristic of a certain school of moralists, as of moral common sense, to declare that the end will never justify the means. What I wish first to point out is that 'right' does and can mean nothing but 'cause of a good result,' and is thus identical with 'useful'; whence it follows that the end always will justify the means, and that no action which is not justified by its results can be right. That there may be a true proposition, meant to be conveyed by the assertion 'The end will not justify the means,' I fully admit: but that, in another sense, and a sense far more fundamental for ethical theory, it is utterly false, must first be shewn.

That the assertion 'I am morally bound to perform this action' is identical with the assertion 'This action will produce the greatest possible amount of good in the Universe' has already been briefly shewn; but it is important to insist that this fundamental point is demonstrably certain. This may, perhaps, be best made evident in the following way. It is plain that when we assert that a certain action is our absolute duty, we are asserting that the performance of that action at that time is unique in respect of value. But no dutiful action can possibly have unique value in the sense that it is the sole thing of value in the world; since, in that case, every such action would be the sole good thing, which is a manifest contradiction. And for the same reason its value cannot be unique in the sense that it

<sup>1</sup>From *Principia Ethica* (pp. 146-148, 167-170, 180-182), by George Edward Moore, Litt. D., LL.D., Lecturer in Moral Science in the University of Cambridge. The Cambridge University Press, 1903; The Macmillan Company, New York. Reprinted by permission.

has more intrinsic value than anything else in the world ; since every act of duty would then be the best thing in the world, which is also a contradiction. It can, therefore, be unique only in the sense that the whole world will be better, if it be performed, than if any possible alternative were taken. And the question whether this is so cannot possibly depend solely on the question of its own intrinsic value. For any action will also have effects different from those of any other action ; and if any of these have intrinsic value, their value is exactly as relevant to the total goodness of the Universe as that of their cause. It is, in fact, evident that, however valuable an action may be in itself, yet, owing to its existence, the sum of good in the Universe may conceivably be made less than if some other action, less valuable in itself, had been performed. But to say that this is the case is to say that it would have been better that the action should not have been done ; and this again is obviously equivalent to the statement that it ought not to have been done—that it was not what duty required. 'Fiat justitia, ruat coelum' can only be justified on the ground that by the doing of justice the Universe gains more than it loses by the falling of the heavens. It is, of course, possible that this is the case : but, at all events, to assert that justice is a duty, in spite of such consequences, is to assert that it is the case.

Our 'duty,' therefore, can only be defined as that action, which will cause more good to exist in the Universe than any possible alternative. And what is 'right' or 'morally permissible' only differs from this, as what will not cause less good than any possible alternative. When, therefore, Ethics presumes to assert that certain ways of acting are 'duties' it presumes to assert that to act in those ways will always produce the greatest possible sum of good. If we are told that to 'do no murder' is a duty, we are told that the action, whatever it may be, which is called murder, will under no circumstances cause so much good to exist in the Universe as its avoidance.

A conclusion, which follows from the fact that what is 'right' or what is our 'duty' must in any case be defined as what is a means to good, is that the common distinction between these and the 'expedient' or 'useful,' disappears. Our 'duty' is merely that which will be a means to the best possible, and the expedient, if it is really expedient, must be just the same. We cannot distinguish them by saying that the former is something which we ought to do, whereas of the



latter we cannot say we 'ought.' In short the two concepts are not, as is commonly assumed by all except Utilitarian moralists, simple concepts ultimately distinct. There is no such distinction in Ethics. The only fundamental distinction is between what is good in itself and what is good as a means, the latter of which implies the former. But it has been shewn that the distinction between 'duty' and 'expediency' does not correspond to this: both must be defined as means to good, though both may also be ends in themselves. The question remains, then: What is the distinction between duty and expediency?

One distinction to which these distinct words refer is plain enough. Certain classes of action commonly excite the specifically moral sentiments, whereas other classes do not. And the word 'duty' is commonly applied only to the class of actions which excite moral approval, or of which the omission excites moral disapproval—especially to the latter. Why this moral sentiment should have become attached to some kinds of actions and not to others is a question which can certainly not yet be answered; but it may be observed that we have no reason to think that the actions to which it was attached were or are, in all cases, such as aided or aid the survival of a race: it was probably originally attached to many religious rites and ceremonies which had not the smallest utility in this respect. It appears, however, that, among us, the classes of action to which it is attached also have two other characteristics in enough cases to have influenced the meaning of the words 'duty' and 'expediency.' One of these is that 'duties' are, in general, actions which a considerable number of individuals are strongly tempted to omit. The second is that the omission of a 'duty' generally entails consequences markedly disagreeable to some one else. The first of these is a more universal characteristic than the second: since the disagreeable effects on other people of the 'self-regarding' duties, prudence and temperance, are not so marked as those on the future of the agent himself; whereas the temptations to imprudence and intemperance are very strong. Still, on the whole, the class of actions called duties exhibit both characteristics: they are not only actions, against the performance of which there are strong natural inclinations, but also actions of which the most obvious effects, commonly considered goods, are effects on other people. Expedient actions, on the other hand, are actions to which strong natural inclinations prompt us almost universally, and

of which all the most obvious effects, commonly considered good, are effects upon the agent. We may then roughly distinguish 'duties' from expedient actions, as actions with regard to which there is a moral sentiment, which we are often tempted to omit, and of which the most obvious effects are effects upon others than the agent.

But it is to be noticed that none of these characteristics, by which a 'duty' is distinguished from an expedient action, gives us any reason to infer that the former class of actions are more useful than the latter—that they tend to produce a greater balance of good. Nor, when we ask the question, 'Is this my duty?' do we mean to ask whether the action in question has these characteristics: we are asking simply whether it will produce the best possible result on the whole. And if we asked this question with regard to expedient actions, we should quite as often have to answer it in the affirmative as when we ask it with regard to actions which have the three characteristics of 'duties.' It is true that when we ask the question, 'Is this expedient?' we are asking a different question—namely, whether it will have certain kinds of effect, with regard to which we do not enquire whether they are good or not. Nevertheless, if it should be doubted in any particular case whether these effects were good, this doubt is understood as throwing doubt upon the action's expediency: if we are required to prove an action's expediency, we can only do so by asking precisely the same question by which we should prove it a duty—namely, 'Has it the best possible effects on the whole?'

Accordingly the question whether an action is a duty or merely expedient, is one which has no bearing on the ethical question whether we ought to do it. In the sense in which either duty or expediency are taken as ultimate reasons for doing an action, they are taken in exactly the same sense: if I ask whether an action is really my duty or really expedient, the predicate of which I question the applicability to the action in question is precisely the same. In both cases I am asking, 'Is this event the best on the whole that I can effect?'; and whether the event in question be some effect upon what is mine (as it usually is, where we talk of expediency) or some other event (as is usual, where we talk of duty), this distinction has no more relevance to my answer than the distinction between two different effects on me or two different effects on others. The true distinction between duties and expedient actions is not that the former are actions which it is in

any sense more useful or obligatory or better to perform, but that they are actions which it is more useful to praise and to enforce by sanctions since they are actions which there is a temptation to omit.

. . . . .

(1) Practical Ethics asks, not 'What ought to be?' but 'What ought we to do?'; it asks what actions are duties, what actions are right, and what wrong: and all these questions can only be answered by shewing the relation of the actions in question, as causes or necessary conditions, to what is good in itself. The enquiries of Practical Ethics thus fall entirely under the third division of ethical questions—questions which ask, 'What is good as a means?' which is equivalent to 'What is a means to good—what is cause or necessary condition of things good in themselves?' But (2) it asks this question, almost exclusively, with regard to actions which it is possible for most men to perform, if only they will them; and with regard to these, it does not ask merely, which among them will have some good or bad result, but which, among all the actions possible to volition at any moment, will produce the best total result. To assert that an action is a duty, is to assert that it is such a possible action, which will always, in certain known circumstances, produce better results than any other. It follows that universal propositions of which duty is predicate, so far from being self-evident, always require a proof, which it is beyond our present means of knowledge ever to give. But (3) all that Ethics has attempted or can attempt, is to shew that certain actions, possible by volition, generally produce better or worse total results than any probable alternative: and it must obviously be very difficult to shew this with regard to the total results even in a comparatively near future; whereas that what has the best results in such a near future, also has the best on the whole, is a point requiring an investigation which it has not received. If it is true, and if, accordingly, we give the name of 'duty' to actions which generally produce better total results in the near future than any possible alternative, it may be possible to prove that a few of the commonest rules of duty are true, but only in certain conditions of society, which may be more or less universally presented in history; and such a proof is only possible in some cases without a correct judgment of what things are good or bad in themselves—a judgment which has never yet been offered by

ethical writers. With regard to actions of which the general utility is thus proved, the individual should always perform them; but in other cases, where rules are commonly offered, he should rather judge of the probable results in his particular case, guided by a correct conception of what things are intrinsically good or bad. (4) In order that any action may be shewn to be a duty, it must be shewn to fulfil the above conditions; but the actions commonly called 'duties' do not fulfil them to any greater extent than 'expedient' or 'interested' actions: by calling them 'duties' we only mean that they have, in addition, certain non-ethical predicates. Similarly by 'virtue' is mainly meant a permanent disposition to perform 'duties' in this restricted sense: and accordingly a virtue, if it is really a virtue, must be good as a means, in the sense that it fulfils the above conditions; but it is not better as a means than non-virtuous dispositions; it generally has no value in itself; and, where it has, it is far from being the sole good or the best of goods.



## CHAPTER IV

### THE ETHICS OF THE STATE

#### 12. THE ETHICAL BASIS AND FUNCTION OF THE STATE<sup>1</sup>

*The social organisation of life: society and the State.* The moral life, on its social side, organises itself in certain external forms, generally described as the ethical institutions—for example, the Family, the State, the Church. The total social organisation may be called Society, and the most important of its special forms—that which in a sense includes all the others—is the political organisation, or the State. Since man is by nature and in his ethical life a social being, he is inevitably also a political being (ζῶον πολιτικόν). The question is thus raised, What is the true form of social organisation? and, more particularly, What is the ethical basis and function of the State? How far should Society become political?

The Greek world, we may say, had no idea of a non-political society; to it society and the State were synonymous terms, the social life was a life of citizenship. The distinction between society and the State is a modern one. The Hellenic State was an adequate and satisfying social sphere for the individual; he wanted no other life than that of citizenship, and could conceive no perfect life for himself in any narrower social world than that of the State. So perfect was the harmony between the individual and the State that any dissociation of the one from the other contradicted the individual's conception of ethical completeness. It is to this sense of perfect harmony, this deep and satisfying conviction that the State is the true and sufficient ethical environment of the individual, that we owe the Greek conception of the ethical significance of the State. Our modern antithesis of the individual and the State is unknown; the individual apart from the State is to the Greek an unethical abstraction. The ethical individual is, as such, a citizen; and the measure of his ethical perfection is found in the perfection of the State of which he is a citizen, and in

<sup>1</sup> James Seth, *A Study of Ethical Principles*, pp. 287-302.

the perfection of his citizenship. We find this characteristic Greek conception carried to its consummation in the *Republic* of Plato. This is at once a treatise on politics and on ethics, on the State and on justice. Plato's problem is to find the ideal State, or the perfect sphere of the perfect life. The good man will be the good citizen of the good State, and without the outer or political excellence the inner or ethical excellence is of little avail. The just man is not an isolated product, he is not even 'self-made'; he grows up in the perfect State, and unconsciously takes on the colour of its laws; he is its scholar, and, even in the inmost centres of his life, he feels its beneficent control. To separate himself from it, in any particular, were moral suicide; to seek to have a 'private life,' or to call anything 'his own,' were to destroy the very medium of his moral being, to seek to play his part without a stage on which to play it. That is to say, social organisation is necessary to the perfection of the individual life; and the only perfect social organisation is the communistic State, which directly and immediately controls the individual, and recognises no rights, individual or social, but its own.

But the growing complexity of the ethical problem, the growing perception of the significance of personality, and the growing dissatisfaction with the State as the ethical sphere of the individual, led even the Greeks themselves to a revision of their view of the relation of the individual to the State. Greek ethics close with the cry of individualism and cosmopolitanism. The State proved its ethical insufficiency, as the individual discovered his ethical self-sufficiency; the outward failure co-operated with the deeper inward reflection, to effect the transition from the ancient to the modern standpoint. Christianity, with its universal philanthropy, its obliteration of national distinctions, its insistence upon the absolute value of the individual, its deeper and intenser appreciation of personality, added its new strength to the forces already in operation. The political societies of the ancient world were gradually supplanted by a Catholic ecclesiastical society. The Church to a large extent displaced the State, and reasserted on its own behalf the State's exclusive claim upon the life of the individual. Controversy was thus inevitably aroused as to the respective jurisdictions of Church and State. The Family, too, acquired a new importance and a new independence. The break-down of feudalism—the political order of the Middle Ages—was followed by the break-down

of its ecclesiastical order also, and the individual at last stood forth in all the importance of his newly acquired independence. Our modern history has been the story of the gradual emancipation of the individual from the control of the State, and its product has been an individualism in theory and in practice which represents the opposite extreme from the political socialism of the classical world. The principle of individual liberty has taken the place of the ancient principle of citizenship. We have become very jealous for the rights of the individual, very slow to recognise the rights of the State. Its legitimate activity has been reduced to a minimum, it has been assigned a merely regulative or 'police' function, and has been regarded as only a kind of balance-wheel of the social machine. Not that the individual has emancipated himself from society. That is only a part of the historical fact; it is no less true that the various extra-political forms of social organisation have assumed functions formerly discharged by the State. But the result is the same in either case—namely, the narrowing of the sphere of the State's legitimate activity.

Various forces have conspired to bring about a revision of this modern theory of the State in its relation to the individual and to the other forms of social organisation. The interests of security have been threatened by the development of the principle of individual liberty to its extreme logical consequences in Anarchism and Nihilism; the very life, as well as the property, of the individual is seen to be endangered by the gradual disintegration of the State; and the strong arm of the civil power has come to seem a welcome defence from the misery of subjection to the incalculable caprice of 'mob-rule.' Individualism has almost reached its *reductio ad absurdum*; the principle of the mere particular has, here as elsewhere, proved itself to be a principle of disintegration. That each shall be allowed to live for himself alone, is seen to be an impossible and contradictory ideal. Experience has taught us that the State is the friend of the individual, securing for him that sacred sphere of individual liberty which, if not thus secured, would soon enough be entered and profaned by other individuals. The evils of a non-political or anti-political condition of atomic individualism have been brought home to us by stern experiences and by the threatenings of experiences even sterner and more disastrous.

The complications which have resulted from industrial competition, the new difficulties of labour and capital which have come in the train

of *laissez faire*, have lent their strength to emphasise the conviction that the State, instead of being the worst enemy, is the true friend of the individual. The doctrine of the non-interference by the State with the industrial life of the individual has very nearly reached its reduction to absurdity. The evils of unlimited and unregulated competition have thrown into clear relief the advantages of co-operation; the superiority of organised to unorganised activity has become manifest. And what more perfect form, it is asked, can the organisation of industry take than the political? Only through the nationalisation of industry, it is felt in many quarters, can we secure that liberty and equality which capitalism has destroyed; only by making the State the common guardian, can we hope for an emancipation from that industrial slavery which now degrades and impoverishes the lives of so many of our citizens. Capitalism has given us a plutocracy which is as baneful as any political despotism the world has seen; we have escaped from the serfdom of the feudal State, only to fall into the new serfdom of an unregulated industrialism.

The evils of leaving everything to private enterprise force themselves upon our attention especially in the case of what are generally called public interests—those branches of activity which obviously affect all alike, such as the means of communication, railways, roads, and telegraphs. A more careful reflection, however, discovers a certain public value in all forms of industry, even in those which are apparently most private. That mutual industrial dependence of each on all and all on each, in which Plato found the basis of the State, has once more come to constitute a powerful plea for the necessity of political organisation; and we have a new State-socialism which maintains that the equal interests of each can be conserved only by the sacrifice of all private interests to the public interest, at least in the means of production, that only by identifying the interest of each with that of all, in the industrial sphere, can we hope to establish the reign of justice among men.

One other force has contributed to the change of standpoint which we are considering, namely, the changed conception of the State itself. The progress towards individual freedom has at the same time been a progress towards the true form of the State; and as the oligarchical and despotic have yielded to the democratic type of government, it has been recognised that the State is not an alien force imposed upon



the individual from without, but that, in their true being, the State and the individual are identical. Upon the ruins of the feudal State the individual has at length built for himself a new State, a form of government to which he can yield a willing obedience, because it is the creation of his own will and, in obeying it, he is really obeying himself. *L'état c'est moi.*

Such causes as these have led to the return, in our own time, to the classical conception of the State and its functions, and to the substitution of the question of the rights of the State for the question of the rights of the individual. The tendency of contemporary thought and effort is, on the whole, to extend the political organisation of society, to socialise the State or to nationalise society. What, then, we are forced to ask, is the ethical basis of the State? What, in its principle and idea, is it? If we can answer this question of the ethical basis of the State, we shall not find much difficulty in determining, on general lines, its ethical functions, whether negative or positive, whether in the sphere of justice or in that of benevolence.

*Is the State an end-in-itself?* From an ethical standpoint the State must be regarded as a means, not as in itself an end. The State exists for the sake of the person, not the person for the sake of the State. The ethical unit is the person; and the function of the State is not to supersede the person, but to aid him in the development of his personality—to give him room and opportunity. It exists for him, not he for it; it is his sphere, the medium of his moral life. Here there is no real difference between the ancient and the modern views of the State; in principle they are one. For Plato and Aristotle, as for ourselves, the State is the sphere of the ethical life, the true State is the complement of the true individual—his proper milieu. The Hellenic State, it is true, as it actually existed and even as Plato idealised it, contradicts in some measure our conception of personality; but it did not contradict the Greek conception of personality. From our modern standpoint, we find it inadequate for two reasons. First, it exists only for the few, the many exist for it: the Greek State is, in our view, an exclusive aristocracy, from the privileges of whose citizenship the majority are excluded. Yet, in the last analysis, we find that the end for which the State exists is the person; those who exist merely for the State are not regarded as persons. If the Greeks could have conceived the modern extension of the idea of personality,

it is safe to say that they would have entirely agreed with the modern interpretation of the relation of the State to the individual. In the second place, it is to be noted that, with all their intellectual and æsthetic appreciation, the Greeks had not yet so fully discovered the riches of the ethical life. With our profounder appreciation of the significance of personality,<sup>1</sup> the merely instrumental value of the State is more clearly perceived. But to those who did reflect upon its essential nature the Greek State also was a creation of the ethical spirit—the great ethical institution. The ancient, as well as the modern State, based its right to the loyal service of its citizens upon the plea that, in serving it, the individual was really serving himself; that, in giving up even his all to it and counting nothing his own, he himself, or other persons, would receive from it a return of full and joyous life, out of all proportion to what he gave.

It is only when we reflect, however, that we fully realise this instrumental value of the State. In our ordinary unreflective thought we are the victims of the association of ideas, and in this, as in so many other cases, we confuse the means with the end. We cannot rationalise our loyalty to the State, any more than we can rationalise our other loyalties. It is a case of the familiar 'miser's consciousness.' As the miser comes to think of money, because of its supreme instrumental importance, as an end-in-itself, and to regard the real ends of life as only means to this fictitious end, so does the citizen come to regard the State, because of its supreme importance as the medium of the ethical life, as itself the end, and himself as but its instrument. Yet it is the function of a medium to mediate and fulfil, not to negate and destroy, that which it mediates; and whenever we reflect we see that the true function of the State is to mediate and fulfil the personal life of the citizen. This theoretic insight is, of course, not necessary to the life of citizenship; we may most truly use the State for this highest end, when we act under the impulse of an unreflecting and uncalculating loyalty to the State itself. But the very fact that we can thus serve the State without disloyalty to our highest self implies that we are not serving two masters, that the only master of our loyal service is the ethical and personal ideal. The ultimate sanction and measure of political obedience is found in the ethical value of the State as the vehicle of the personal life of its citizens.

<sup>1</sup> Compare this discussion of personality with that in Chapter XXVI.—ED.

The true relation of the State to the individual has been obscured in modern discussion by the constant antithesis of 'State-action' and 'individualism.' The antithesis is inevitable, so long as we regard the individual as a mere individual. So regarded, he is like an atom that resists the intrusion of every other atom into its place: the mere individual is anti-social and anti-political, and to 'socialise' or 'nationalise' him is to negate and destroy him. His life is one of 'go-as-you-please,' of absolute *laissez faire*. But the ethical unit is not such a mere atomic individual; it is the person, who is social and political as well as individual, and whose life is forwarded and fulfilled, rather than negated, by the political and other forms of social organisation. To isolate him from others, would be to maim and stunt his life. That the State has seemed to encroach upon the life of the ethical person, is largely due to the constant use of the term 'State-interference.' In so far as the State may be said to interfere, it is only with the individual, not with the person; and the purpose of its interference is always to save the person from the interference of other individuals. Neither the State nor the individual, but the person, is the ultimate ethical end and unit. "The State at best is the work of man's feeble hands, working with unsteady purpose; the person, with all his claims, is the work of God."<sup>1</sup> What is called 'State-interference' is in reality the maintenance of this ethical possibility, the making room for the life of the person. If all individuals were left to themselves, they would not leave each other to themselves: individual would encroach upon individual, and none would have the full opportunity of ethical self-realisation.

*The ethical basis of the State.* Just here lies the ethical problem of the basis of the State. The essence of the State is sovereignty, and the maintenance of the sovereign power through coercion or control. In order that each may have freedom of self-development, each must be restrained in certain ways. Is not the process ethically suicidal? Is not the personality destroyed in the very act of allowing it freedom of self-development? Does not State-control supplant self-control, the sovereignty of the State the sovereignty of personality? Does not the political negate the ethical life, and the State constrain the person to act impersonally?

Two extreme answers are offered to this question. The first is the answer of Anarchism, the refusal of the self to acknowledge any con-

<sup>1</sup>S. S. Laurie, *Ethica* (2d ed.), p. 69.

trol from without. This is the answer of pure individualism, and confuses liberty with license. The individual who refuses to acknowledge any obligations to other individuals, and denies the right of society to control his life, will not control himself. The life of individuals who refuse to become 'political' will be a 'state of war,' if not so absolute as Hobbes has pictured it, yet deplorable enough to teach its possessors the distinction between liberty and license, and to awaken in them the demand for that deliverance from the evils of unrestrained individualism which comes only with the strong arm of law and government. The other answer is that of Despotism, which allows no freedom to the individual. This would obviously de-personalise man, and, depriving him of his ethical prerogative of self-government, would make him the mere instrument or organ of the sovereign power. Do these alternative extremes exhaust the possibilities of the case? Is despotism the only escape from anarchy; can we not have liberty without license?

It seems at first as if there were no third possibility, as if the very existence of the State, of law, of government, carried with it a derogation from the personal life of the citizen. So far as its dominion extends, the State seems to take the management of his life out of the individual's hands, and to manage it for him. The will of another seems to impose its behests upon the individual will or person, so that he becomes its creature and servant; losing his self-mastery, he seems to be controlled and mastered by another will.

It is the specific function of government to impose upon the individual, in apparent violation of his claim to free self-determination, an alien will, an alien law. . . . Preachers and teachers try to instruct us as to what course our own highest reason approves, and to persuade us to follow that course. When they have failed, government steps in and says: "Such and such are the true principles of justice. I command you to obey them. If you do not, I will punish you."<sup>1</sup>

Autonomy is of the essence of the moral life, since that life is essentially personal. But the very existence of the State seems to imply heteronomy, or an impersonal life in the citizen. The difficulty does not arise, it is to be observed, from the artificiality of the State, or from the natural egoism of human nature. Let us admit that the

<sup>1</sup>F. M. Taylor, *The Right of the State to Be*, p. 44.



State itself is the product and creation of the human spirit, that man is by nature a political being, that is, a being whose life tends naturally to the political form. The question is, whether the human spirit is not imprisoned in its own creation; whether the ethical life is not lost in the political, autonomy in heteronomy.

The first thing to be noted is, that the imposition of the will of another upon the individual does not destroy the individual will. We are apt to think of the divine will as so imposed, of certain restrictions as laid by the very nature of things upon the life of the individual; yet we do not find in this any infraction of human personality or will. All that is imposed is a certain form of outward activity; the inward movement of the will is not necessarily touched. Thus all that is enforced by the political will or the sovereign power is outward obedience, not the inward obedience of the will itself. It is for the individual to say whether he will complete the outward surrender by the inward self-surrender. He may yield either an outward conformity or an inward conformity; the act required may be performed either willingly or unwillingly. The appeal is to the will or personality, and it is for the will to respond or not to the appeal. What is coerced is the expression of the individuality in outward act: the citizen is not allowed to act as the creature of ungoverned impulse. Not that the task of self-control is taken out of his hands, or his individuality mastered by another will or personality rather than by his own. The mastery of the State extends only to the expression of individual impulse in the corresponding outward activities. The citizen may still cherish those impulsive tendencies the expression of which in the field of overt activity has been restrained, as the criminal so often does cherish his criminal instincts and habits, notwithstanding the outward repression. The criminal may remain a criminal, though the State prevents his commission of further crime. He cannot be mastered by another, but only by himself: it is for himself alone, by an act of deliberate choice, to say whether he will remain a criminal or not.

By its punishments the State not merely restrains the outward activity of its citizens; it further, by touching the individual sensibility, appeals to the person to exercise that self-restraint which is alone permanently effective. It is for the person to say whether he will, or will not, exercise such self-restraint. Just in so far as he re-enacts the verdict of the State upon his life, or recognises the justice

of its punishment ; just in so far as he identifies his will with the will that expresses itself in the punishment, so that what was the will of another becomes his own will,—is the result of such treatment permanently, and thoroughly, and in the highest sense successful. When the person has thus taken the reins of the government of sensibility into his own hands, political coercion ceases to be necessary. The will now expresses itself in the act, the dualism of inward disposition and outward deed has disappeared, and the life is, even in these particulars, a personal life.

Thus interpreted, the coercion of the State is seen to be an extension of the coercion of nature. Nature itself disallows certain lines of activity, does not permit us to follow every impulse. The organisation of life in political society implies a further restraint upon individual tendencies to activity, a certain further organisation and co-ordination of the outward activities. But the organisation and co-ordination of the impulsive tendencies to activity—this is in the hands not of the State, but of the individual will. The right of the State to coerce the individual, in the sense indicated, is grounded in the fact that it exists for the sake of the interests of personality. As these interests are superior in right to the interests of mere individual caprice, so are the laws of the State superior to the instincts and impulses of the individual. The State restrains the expression of the individuality, that it may vindicate the sacred rights of personality in each individual. Its order is an improvement upon the order of nature ; it is more discriminating, more just, more encouraging to virtue, more discouraging to vice. The political order foreshadows the moral order itself ; it is a version, the best available for the time and place and circumstances, of that order.

And although the action of the State seems at first sight to be merely coercive, and its will the will of another, a closer analysis reveals the fundamental identity of the State, in its idea at least, with the ethical person. The sovereign will represents the individual will, or rather the general will of the individual citizens. Here, in the general will of the people, in the common personality of the citizens, is the true seat of sovereignty. The actual and visible sovereign or government is representative of this invisible sovereign. The supreme power in the State, whatever be the form of government, is therefore, truly regarded, the 'public person,' and, in obeying it, the citizens

are really obeying their common personality. The sovereign power is "the public person vested with the power of the law, and so is to be considered as the image, phantom, or representative of the commonwealth . . . and thus he has no will, no power, but that of the law."<sup>1</sup> Obedience to the State is obedience to the citizen's own better self; and, like Socrates, we ought to be unwilling to 'disobey a better.' The apparent heteronomy is really autonomy in disguise; I am, after all, sovereign as well as subject, subject of my own legislation. The right of the State is therefore supreme, being the right of personality itself. For the individual to assert his will against the will of the State, is ethically suicidal. Socrates went willingly to death, because he could not live and obey the State rather than God; he accepted the will of the people that he should die, and saw in their will the will of God. Death was for him the only path of obedience to both the outward and the inward 'better.' The individual may criticise the political order, as an inadequate version of the moral order. He may try to improve upon, and reform it. He may even, like Socrates, 'obey God rather than man,' and refuse the inner obedience of the will. But, where the State keeps within its proper function, he may not openly violate its order.

*The limit of State action.* If the State should step beyond its proper function, and invade, instead of protecting, the sphere of personality; if the actual State should not merely fall short of, but contradict the ideal—then the right of rebellion belongs to the subject. If a revolution has become necessary, and if such revolution can be accomplished only by rebellion, rebellion takes the place of obedience as the duty of the citizen. Even in his rebellion he is still a citizen, loyal to the law and constitution of the ideal State which he seeks by his action to realise.

This contradiction may occur in either of two ways. In the first place, the action of the sovereign power may not be representative or 'public': it may act as a private individual, or body of individuals. As Locke again says:

When he quits this public representation, this public will, and acts by his own private will, he degrades himself, and is but a single private person without power, and without will that has any right to obedience—the members owing no obedience but to the public will of the society.

<sup>1</sup> Locke, *Treatise of Civil Government*, Book II, chap. xiii.

The true sovereign must count nothing 'his own,' must have no private interests in his public acts: his interests must be those of the people, and their will his. If he acts otherwise, asserting his own private will, and subordinating the good of the citizens to his own individual good, he thereby uncrowns himself, and abnegates his sovereignty. Then comes the time for the exercise of 'the supreme power that remains still in the people.' The necessity of the English and the French Revolution, for example, lay in the fact that the actual State contradicted the ideal, seeking to destroy those rights of personality of which it ought to have been the custodian, and before which it was called to give an account of its stewardship. At such a time the common personality, in whose interest the State exists, must step forth, assert itself against the so-called 'State,' and, condemning the actual, give birth to one that shall be true to its own idea, that shall help and not hinder its citizens in their life of self-realisation. The power returns to its source, the general will, which is thus forced to find for itself a new and more adequate expression.

This brings us to the second form of the contradiction between the actual and the ideal State. When the present formulation of the general will has become inadequate, it must be re-formulated; and this re-formulation of its will by the people may mean revolution as well as reformation. Such a criticism and modification of the State is indeed always going on, public opinion is always more or less active and more or less articulate; and it is the function of the statesman to interpret, as well as to guide and form, this public opinion. As long as there is harmony between the general will and the will of the government, as long as the government is truly representative of the governed, so long the State exists and prospers.

### 13. THE ETHICS OF THE FAMILY VERSUS THE ETHICS OF THE STATE<sup>1</sup>

The salvation of every society, as of every species, depends on the maintenance of an absolute opposition between the regime of the family and the regime of the State. To survive, every species of creature must fulfil two conflicting requirements. During a certain period each

<sup>1</sup> From *The Principles of Sociology* (Vol. I, pp. 719-721), by Herbert Spencer. D. Appleton and Company, New York, 1901.



member must receive benefits in proportion to its incapacity. After that period, it must receive benefits in proportion to its capacity. Observe the bird fostering its young or the mammal rearing its litter, and you see that imperfection and inability are rewarded; and that as ability increases, the aid given in food and warmth becomes less. Obviously this law that the least worthy shall receive most aid, is essential as a law for the immature: the species would disappear in a generation did not parents conform to it. Now mark what is, contrariwise, the law for the mature. Here individuals gain benefits proportionate to their merits. The strong, the swift, the keen-sighted, the sagacious, profit by their respective superiorities—catch prey or escape enemies as the case may be. The less capable thrive less, and on the average of cases rear fewer offspring. The least capable disappear by failure to get food or from inability to escape. And by this process is maintained that quality of the species which enables it to survive in the struggle for existence with other species. There is thus, during mature life, a reversal of the principle that ruled during immature life.

Already we have seen that a society stands to its citizens in the same relation as a species to its members; and the truth which we have just seen holds of the one holds of the other. The law for the undeveloped is that there shall be most aid where there is least merit. The helpless, useless infant, extremely *exigeant*, must from hour to hour be fed, kept warm, amused, exercised. As fast as, during childhood and boyhood, the powers of self-preservation increase, the attentions required and given become less perpetual, but still have to be great. Only with approach to maturity, when some value and efficiency have been acquired, is this policy considerably qualified. But when the young man enters into the battle of life, he is dealt with after a contrary system. The general principle now is that his reward shall be proportioned to his value. Though parental aid, not abruptly ending, may soften the effects of this social law, yet the mitigation of them is but slight; and, apart from parental aid, this social law is but in a small degree traversed by private generosity. Then in subsequent years when parental aid has ceased, the stress of the struggle becomes greater, and the adjustment of prosperity to efficiency more rigorous. Clearly with a society, as with a species, survival depends on conformity to both of these antagonist principles. Import into the

family the law of the society, and let children from infancy upwards have life-sustaining supplies proportioned to their life-sustaining labours, and the society disappears forthwith by death of all its young. Import into the society the law of the family, and let the life-sustaining supplies be great in proportion as the life-sustaining labours are small, and the society decays from increase of its least worthy members and decrease of its most worthy members. It fails to hold its own in the struggle with other societies, which allow play to the natural law that prosperity shall vary as efficiency.

Hence the necessity of maintaining this cardinal distinction between the ethics of the Family and the ethics of the State. Hence the fatal result if family disintegration goes so far that family-policy and state-policy become confused. Unqualified generosity must remain the principle of the family while offspring are passing through their early stages; and generosity increasingly qualified by justice, must remain its principle as offspring are approaching maturity. Conversely, the principle of the society, guiding the acts of citizens to one another, must ever be, justice, qualified by such generosity as their several natures prompt; joined with unqualified justice in the corporate acts of the society to its members. However fitly in the battle of life among adults, the proportioning of rewards to merits may be tempered by private sympathy in favour of the inferior; nothing but evil can result if this proportioning is so interfered with by public arrangements, that demerit profits at the expense of merit.

#### 14. SOCIETY AND THE INDIVIDUAL<sup>1</sup>

This ancient theme is of importance for us today because undoubtedly we are in the presence of a reaction from the emphasis upon the social that characterized our thinking in all the social sciences during the past two decades. For a time the nineteenth-century individualist was doing no more than fighting an obstinate rear-guard action. He was content to protest against extravagant emphasis upon

<sup>1</sup> By Professor Roscoe Pound, Ph.D., LL.D., LL.M., D.C.L., Carter Professor of General Jurisprudence and Dean of the Faculty of Law, Harvard University. Adapted from the article under this title in the *Proceedings of the National Conference of Social Work*, 1919, pp. 103-107. Copyright, 1920, by the National Conference of Social Work.

the social, and to urge a certain verity in the extreme individualist point of view. Of late he has begun to halt and hold his head high, and indeed even to make counter attacks. Some have gone so far as to urge that recent theories of social interests have "abolished the individual." In large part this reaction seems to me to proceed upon a misunderstanding of the significant features of the social point of view. Indeed, I venture to believe that we are only just beginning to grasp the importance and to perceive the possibilities of that point of view.

Our thinking, like our institutions, like our speech, like our spelling, yes, like the ground plan of our cities, is largely conditioned by the past. One of our fundamental local units is the county which in its very name preserves the memory of the days when the earl and the bishop administered in their territorial domain. In our representative government the representatives still represent soil—the paramount interest of the Middle Ages—not directly modern interests. The words we use by which our thinking is conditioned have thousands of years of history behind them, and our spelling records the vicissitudes of that history. In the larger and older cities of the Atlantic coast the very street plan of the city represents, not the needs of the traffic of today, but the caprice or convenience of the first settler in pioneer days, or perhaps in the case of one of our oldest cities, the caprice or convenience of the seventeenth-century cow. In like manner our thinking on the relation of society and the individual is conditioned not primarily by the circumstances of modern society, but by two ideas of the past.

*Older interpretations of the social order.* One of these is the idea of society as a voluntary product of individual agreement, like a partnership or a corporation—an idea by which after the breakdown of the medieval social organization men sought to give expression to the social interest in the individual life. The other of these ideas is the Byzantine conception of the state as authority from without, not public service from within, revived with the rise of the national idea after the Reformation, and given strength by the development of strong central national governments in the seventeenth and eighteenth centuries. Under the influence of these ideas we came to think of the conflict between individual interests and the interests of politically organized society—or rather the interests of the personified political



organization of society—as a fundamental antithesis between society and the individual. The circumstances of the contest between the courts and the Crown in seventeenth-century England intrenched this mode of thought in American law and American politics, and our Bills of Rights are full of it. Accordingly in the nineteenth century we were wont to read the history of civilization as a history of individual struggle against organized society to establish and secure individual rights, and our classical legal and political thought put society and all social groups as products of individual agreement.

As anything more than an attempt at a rational account of the social interest in the individual human life nothing could be more untrue. Metaphysically the individual conscious ego may, if you will, be the unit. But it is a profound mistake to take that ego for the ultimate reality in the social world. You and I are born into the great stream of society. We die out of it. But it went on before us and will go on after us, and if some of us are able to do something to shape some part of its course, yet how much more will it have shaped us, molding our thoughts by fixing the conditions under which and words by which we think, controlling our actions by bonds of convention, fashion, general opinion, of which we are hardly conscious, which we can resist only here and there, and then often but feebly, and forming our very personality by the pressure day and night of a thousand points of contact with our fellows in the stream. So true is it that the individual is a social product or a social outcome rather than society an individual product.

A few years ago all this was, one might say, trite. But a reaction has set in. Men have come to fear that in this emphasis on the social stream the interests of the individual in the stream will be overlooked and neglected—as it has been said, that our social thinking would abolish the individual. Thus there is coming to be a marked revival of the abstract individualism against which we were all in revolt a decade ago.

I submit the way to meet this reaction is to recognize the kernel of truth in the old individualism—that is, that one of the chiefest of social interests is that each individual have an opportunity to lead a human life; to recognize a social interest in the moral and social life of the individual, and to recognize that one of the chief agencies of social progress is individual freedom and individual initiative.



*An engineering interpretation.* Much of the progress in thinking consists in new ways of putting old ideas, and new ways of stating old problems. In the past we have tried to state the problem of society and the individual in terms of law by theories of a social contract, in terms of metaphysics by theories of the general will and the state personality, and in terms of biology by theories of a well-ordered struggle for existence. I venture to think we may gain something by stating it in terms of engineering. In this belief I have on several occasions hazarded an engineering interpretation of sociology, jurisprudence, and politics. Let us think of a great task, or rather a great series of tasks, of social engineering. For our problem is not one of abstract harmonizing of human wills; it is one of concrete securing or realizing of human interests. The central tragedy of existence is that there are not enough of the material goods of existence, as it were, to go round; that while individual wants are infinite the material means of satisfying those wants are finite; that while, in common phrase, we all want the earth, there are many of us but there is only one earth. Thus our task becomes one of conserving these goods of existence in order to make them go as far as possible, of eliminating friction and of eliminating waste, in order that where each cannot have all that he claims, he may at least have all that is possible. Put in this way our problem becomes one of securing as many interests as we can with as little sacrifice as possible of other interests.

Thus our first consideration must be to take stock of these interests which we are to secure, our second to weigh and balance them and determine which we are to secure and within what limits, and our third to find how to secure those which we have recognized and defined.

Of these three problems the last two are foreign to the present purpose. Let us look a moment at the first. Protested after the fashion of the common-law pleader that I mean nothing more than to classify, I would venture to suggest that the interests of which we must take account fall into three great groups. One group is individual interests—the claims which the human being makes simply because he is a human being. For example, the claims to be secure in his body and life, in his physical existence; to be secure in his reputation and honor, in his social existence; to be secure in his belief and opinion, in his spiritual existence; to be secure in his domestic relations, in his ex-

panded individual existence, and to be secure in his substance, in his economic existence. Another group may be called public interests—that is, the claims which the state may make simply as such—the claims which are involved in the very existence of a politically organized society. Both these and the next group were thought of originally as individual interests of a personal sovereign, and our thinking ever since has been conditioned too much by this circumstance. Our legal thinking today thinks of the next group as interests of the state in its capacity of guardian of social interests. Let us, however, think of them for the moment directly; let us think rather of the state as an instrumentality through which all interests are, or are sought to be, secured. Looking at it in that way we may put for our third group, social interests, the claims of human society, simply as such—the claims involved in the very existence of civilized human society. Such claims, for instance, are the general security, including in modern times security of acquisitions and security of transactions, the general morals, the security of social institutions, domestic, religious, and political, the conservation of social resources, the general progress, economic, political, and cultural, and last, but by no means least, the social interest in the individual moral and social life—the social interest in the individual human existence. Here I venture to think we have the key to our problem. Social control is a matter of compromise. If I assert myself by driving an automobile forty miles an hour, I come into conflict with your interest in freely crossing the street. Men used to think this was simply a problem of compromise between you and me. But it is more than that and more even than a compromise between you and me and politically organized society as an entity. Over and above the claims of individuals and the claims of the sovereign political organization there are the claims made by human civilized society, inherent in the very nature of such society. We have lost sight of most of these in the first great claim of society, the claim to peace and order and health and public safety, and as incidents, to the security of property and contracts; but beyond that there are the other social interests already enumerated, and above all, and the one I want to emphasize here, the social interest in the individual moral and social life—that each human being in society may be able to live a human life. What we have to do is through some system of social engineering to conserve the objects of human

claims so as to eliminate friction, eliminate waste, and give to these claims the widest possible satisfaction out of the objects to which they apply.

*An engineering interpretation of the state.* Out of this engineering interpretation of the social problem comes a significant change in our idea of the state. Let us for a moment think of it not legally as a relation created by a social compact, nor metaphysically as the general will, nor biologically as a huge super-organism, but functionally as the chiefest of human agencies by which human society achieves its tasks of social engineering. For after all the state is by no means the sole of these agencies. Religious organizations, fraternal organizations, vocational organizations, social and benevolent organizations, even business organizations, do a large part. The state is simply the chiefest and most enduring and most efficacious of these agencies. Thus in this sense we may think of it as a great public service institution—one might say a great public service company, as truly as a railroad company, or a lighting company or a telegraph company—bound from the nature of its undertaking to furnish a reasonable service to all alike at reasonable rates and without discrimination, and to provide a reasonable incidental service and incidental facilities.

Looking at the state in this fashion we may see that it is neither the Leviathan which Hobbes pictured—the monster armed with the sword of war and the sword of justice ruling us from without—nor the benevolent and all-wise father which others have pictured, feeding us, clothing us, educating us, and setting us to wholesome tasks according to our capacity. Lord Coke translated S. P. Q. R., *Stultus populus quaerit Romam*—"A foolish people runneth to Rome." The individualism of the seventeenth-century common law saw no reason why men should run to the great center of authority at every turn.

Much undoubtedly can be done, and must be done, through the organized effort of all of us directed from the center. But the great central machine may attempt too much. Friction and waste are not necessarily eliminated by setting this machine to do what may be done better by spontaneous individual initiative. For, let us repeat, what we are trying to do is to conserve the goods of existence, eliminate friction in the use of them, and prevent waste in the enjoyment of them. Our political organization seeks to do this, and in doing it



above all to secure the social interest in the moral and social life of the individual. If it functions aright it enables each of us and all of us to live a truly human life in civilized society. But in doing this it does much more. If it functions aright it preserves and orders and advances civilization, which is something older and more enduring and more precious than any of us or all of us, and older and more precious and perhaps more enduring than any single organization—to which indeed all human organizations are but means. And what is civilization after all but an increasingly perfect social engineering?

### 15. THE INDIVIDUAL AND THE STATE<sup>1</sup>

Our task to-day is to examine the movement of opinion which has been outlined, in the light of social theory. We held that social progress consists in a harmonious development, and we further defined this conception as including a harmony in the development of the personal life of the members of society, and in the working out and fulfilment of the various and at first sight divergent elements of value which constitute the well-being of the social order. In the movement of opinion we have seen a certain conflict of ideals and our question is whether, if we probe deeper, a basis of reconstruction can be found. To find an answer let us take up the question afresh. Let us start with the conception of the social order which the principle of harmonious development would suggest. Let us consider to what view of the functions of the state and the rights of the individual it would lead and let us, in order to observe the limitations of time, deal with the question with special reference to the problem of liberty.

To begin with, the general theory of society indicated by the ideal of harmonious development is clearly one of coöperation. We may say, with Aristotle, that society is an association of human beings with a view to the good life. The social life is essentially a co-operation in the working out of common objects, and the best organized society will be that in which the coöperation is most perfect and complete; but in saying this, two distinctions have to be kept in view. In the first place coöperation has its negative as well as its

<sup>1</sup>From *Social Evolution and Political Theory* (pp. 185-205), by Leonard T. Hobhouse, D. Litt., Professor of Sociology in the University of London. Copyright, 1911, by the Columbia University Press, New York.



positive side. Mutual aid is essential to social life; mutual forbearance is equally necessary; indeed, as a condition of living together, at least of living a harmonious life together, it is even the more fundamental of the two, and also perhaps the more difficult to secure. In thinking, then, of social life as a form of coöperation we must lay stress not only upon the activities which it cultivates in common, but on the idiosyncrasies which it tolerates, the privacy which it allows, the divergent developments of personality which it fosters.

Secondly, in speaking of the ideal of society, we must remember that social life and the life of the state are not one and the same thing. From the principle that social life is a mode of coöperation we cannot infer offhand that the function of the state is to foster coöperation of the same kind and in the same degree. To determine what functions the state itself has to perform within the coöperative social life, we have to ask ourselves, first, what are the special characteristics of the state as a form of society, and how these special characteristics affect its function. Two characteristics which affect all state action occur to us at once as bearing upon the question of its legitimate sphere. These are, in the first place, that the life of the state is crystallized into the form of definite institutions, that its ordinances have to be incorporated in laws and rules of universal application, that it must deal with men in masses and with problems in accordance with what is general and not with what is particular. Hence it is with difficulty adapted to the individuality of life; it is a clumsy instrument, as it were, for handling human variation. It is inadequate, to adapt Bacon's phrase, to the subtlety of human nature. Its sphere is the normal, the prosaic, the commonplace; its business is to solidify the substructure of society rather than to pursue its adornment. It can handle the matters upon which ordinary people usually agree better than those upon which there is variety of opinion.

In the second place, the state is a compulsory form of association. Its laws have force behind them, and not only so, but the state does not leave it open to the inhabitants of its territory to decide whether they will remain members of the association or not. In a voluntary association there are rules compulsory upon all those who remain members, but the ultimate liberty is reserved to individuals to part from the association if they please. In the case of the state, this ultimate liberty can only be exercised by quitting the state territory

altogether, and even that privilege has been at various times denied to the subjects of the community, and is to-day not unhampered with difficulties for the poor. Now it is true that there are important functions which the state can perform without the direct use of compulsion. When government conducts a business enterprise it does not necessarily compel any one to avail himself of its services, nor does it necessarily suppress competition. On this side the question as between the state and the individual is not one of the limits of liberty, but of responsibility. But ordinarily the intervention of the state action does involve some sort of compulsion upon the individual and in what follows we will confine our attention to cases of this kind. It is not difficult to see that functions may be useful and salutary when freely performed which would be useless and even injurious when imposed on reluctant people. In a sense this may be said to be true of all moral and spiritual functions in so far as they are moral and spiritual, because when performed under compulsion they lose their moral and spiritual value. It is not to be inferred from this that the state has no moral or spiritual functions. Indeed, its action in certain capacities may be one way, and possibly the best way, of expressing the moral and spiritual interests of its members. It does suggest that its action as a spiritual body can only have value in as far as it is expressing the will of its members, and not imposing a law upon them which they do not freely and voluntarily accept.

It follows further that the legitimate functions of the state must depend upon the whole circumstances of the society which is under consideration. The kind of compulsion that is necessary, the degree of success with which compulsion can be applied, and the reflex consequences of its employment upon the general life of society will depend essentially upon the composition of the community and the relation of the government to its subjects. For example, in a very homogeneous society, where all the people are of one race, one allegiance, and one religion, there will be a general adherence to the same customs, a general sympathy with the same ideals of life, and there will be little difficulty in maintaining laws which could only be imposed upon an alien race by means of extreme severity. In such a society, then, the sphere of the state can quite usefully be extended to functions which, in a complex empire governing men of different nationalities and rival religions, will produce confusion and the

breaking-up of laws. One cannot, then, lay down general rules as to the functions of the state which will apply to all times and places. Our only general rule will be that, seeing that the state is a form of association and is limited by the fact that its functions have to be crystallized in definite institutions, expressed in universal laws, and in large measure carried out by the use of compulsion, their sphere must be determined by considering how far the objects of social coöperation can be furthered by methods of this kind, or how far, on the other hand, the nature of the methods necessary will itself conflict with the ends desired.

In this discussion we have said nothing as yet of the rights of the individual as such, or of the ideal of liberty as itself a fundamental barrier to certain kinds of state action. In fact, this antithesis between the rights of the individual and the welfare of the state, between liberty as such and restraint as such, appears to be a false antithesis. To begin with, if liberty is a social conception, there can be no liberty without social restraint. For any one person, indeed, there might be a maximum of liberty if all social restraints were removed. Where physical strength alone prevails the strongest man has unlimited liberty to do what he likes with the weaker; but clearly, the greater the freedom of the strong man the less the freedom of the weaker. What we mean by liberty as a social conception is a right to be shared by all members of society, and very little consideration suffices to show that, in the absence of restraints enforced on and accepted by all members of a society, the liberty of some must involve the oppression of others. Just as the liberty of the strong man to assail the weak destroys the liberty of the weak man to call his body his own, so—to take an instance from our own contemporary experience—the liberty of the motor-car to use the roads may, and often does, go so far as to impair the liberty of any other class of vehicle or the liberty of pedestrians to use the same road for their purposes. Excess of liberty contradicts itself. In short, there is no such thing; there is only liberty for one and restraint for another. If liberty then be regarded as a social ideal, the problem of establishing liberty must be a problem of organizing restraints; and thus the conception of a liberty which is to set an entire people free from its government appears to be a self-contradictory ideal. Like other contradictory ideals, it has in fact an historical explanation. A community as a whole may cherish



the ideal of freedom, and by freedom may mean escape from the whole system of government under which it lives, when that system of government is imposed by an alien power. Thus a subject nationality or a subject class may claim freedom in a quite general sense, but it is freedom, if properly understood, not from government altogether but from alien government, not from law as such, but from the particular laws alien to the good of the subject people, which are imposed upon them from without. In a self-governing people, unless the machinery of democracy is very sadly out of gear, so complete a want of touch between governing and governed can hardly be apprehended. Law and government in such a case must in the main express the character, on the whole forward the collective purpose of at least the majority of the individuals constituting the community. And here arises an important corollary to what has been said above of the ethical basis of state functions. So far as self-government is genuinely realized, state action expresses the combined will of individuals. The desires of the individual citizen may effectuate themselves most fully through state machinery, and in so far as the law and the administration are carrying out the moral will of the majority, so far their action has just as much moral value as though it were performed by the individuals themselves through the agency of a voluntary association. Hence when we trace the growing confidence in state action to the advance of democratic institutions we touch a deeper principle than that of the mere political control of the legislative and administrative machine. As long as law could be fairly regarded as a rule imposed by a superior there was a serious meaning in the antithesis between that which the law did for people and that which people did for themselves. There was point in the demand for self help and the voluntary organization of mutual aid as something intrinsically superior to the parental interference of a superior authority. There was a ground for saying that the former method fostered a manly independence and a "living" sense of social responsibility, while the latter was a species of charity which might sap these qualities. But when the reform of the law depends on the deliberate resolve of the people themselves, when it is won at the cost of a hard-fought political struggle, by the appeal to reason, by a contest involving widespread earnestness, some self-sacrifice, much serious attention to some social problem and the means of solving it, then the law is no magician's wand helping people out



of trouble with no effort of their own. It is the reward of effort. It is the expression of a general resolve. It embodies a collective sense of responsibility. It is, in a word, something that a mass of people have achieved by their combined efforts for their common ends, just as a well-organized trade-union or a friendly society is an achievement won by combined effort for common ends. Now this, it may be objected, is an idealized picture of the working of democracy, and I am far from ignoring the seamier side. Nevertheless in so far as popular government succeeds, it does realize some elements of this ideal, and just so far the older objection to the extension of the sphere of the law which rests on the danger of weakening the moral fiber loses its strength.

But we can carry the argument a step further. If liberty is among other things the right of self-expression, this is a right which masses of men may claim when they want the same thing. Majorities will claim it as well as minorities, and they will seek to use the means that lie to hand for effectuating their claim. Now it may be that legal machinery is the only efficient means for the purpose, and if the members of a majority are debarred from the use of such machinery, their will is to that extent frustrated and their right so far denied. Now there may be good grounds for this denial. It may be better that a majority should be prevented in any given instance from exercising its will. The objections to the use of coercion in some directions may be, and for my part I should agree that they are, so great that it is better that the majority should fail to get its way. But do not let us shut our eyes to the fact that to insist on this in any case, whether for good and sufficient or for bad and insufficient reasons, is alike to put a restraint on self-expression, and to that extent upon liberty. The liberty of the minority in such a case is (as always) a restraint upon the majority.

Two questions, it will be seen, arise from this discussion. The first is, what are those matters in which the majority can only find self-expression through the machinery of law? The second is, what are those considerations which may legitimately restrain the majority from exercising their power even when as a result their *prima facie* right of self-expression is defeated.

The reply to the first question is in principle simple enough. Experience shows us that there are many things that can be done by in-

dividual initiative and by voluntary association, but that there are also many things in which these two agencies fail. A man may worship God as his own feelings dictate without compelling others to worship with him. He may associate himself with those who are like-minded. He may form a church where all may worship together after the fashion upon which they are agreed; and their worship, if it is a worship in spirit and in truth, is none the less hearty, none the less spiritually effective because of the existence of others who frequent different churches or who frequent no church at all. The effective formation of religious organization then does not depend upon universal adhesion, and in carrying out their common will, the members of a church have not to depend on securing the coöperation of those who differ from them. Hence, for this reason if for no other, the religious life of a community may be pursued with vigor without calling on the state for support.

On the other hand, there are many cases in which coöperation, if not universal, is altogether ineffective. Take, as an instance, the question of the early closing of shops. The great majority of employers in a given district may desire to close early, both for their own sake and for the good of those in their employment; but, as every one knows, in the world of competition the refusal of a handful of men, and perhaps even of a single tradesman, to agree to the common desire may wreck the whole intention. Unless the minority can be compelled to come in, the majority cannot get their way. In such case it would seem that an end, which the community holds valuable and which the majority of those affected by it desire, is a fair subject for enforcement by the common law with its compulsory powers.

Again, paradoxical as it seems at first sight, it is nevertheless profoundly true that there are cases in which the interest not of one man only or of some men, but of all considered individually and temporarily, is opposed to the interest of all considered collectively and permanently. Thus it is the interest of any individual at any moment to buy what he wants as cheaply as he can. But it is quite possible that a system of free competition catering for the temporary needs of each individual purchaser should have the effect of gradually and imperceptibly lowering the standard of production by substituting cheapness for quality. If so, the process set up by each man following

his immediate interest may result in a general deterioration of standard whereby in the end the interest of each is less effectively served. Nor can the individual stand alone against this process by exercising a more far-sighted view. He cannot resist the tendency set in motion and constantly propelled by the pressure of immediate interests. It is only concerted action that is effective against the pressure of the mass, and if by such action a higher standard of quality can be permanently maintained, all are in the end the gainers. To take a slightly different illustration: any man driving a motor-car wants to get on as quickly as he can. The same man when walking may be annoyed or endangered by the speed of other peoples' cars, but by driving carefully himself he cannot force others to do the same. He can secure his safety only by supporting legislative and general control. Once again: it may be the interest of any particular employer to buy labor as cheaply as possible. He cannot, unless he has exceptional organizing capacity, pay more than others. But it is not to the interest of employers as a whole that the classes from whom their work-people are drawn should deteriorate in efficiency and lose in purchasing power through low wages and bad industrial conditions. Hence collectively they may be ready to accept regulations which individually they would be powerless to put in force.

The principal sphere of the state then appears to be in securing those common ends in which uniformity or, more generally, concerted action, is necessary. On the other hand, purposes which can be secured without compelling the adhesion of those who do not accept them fall naturally within the sphere of individual enterprise and voluntary coöperation. The function of the state then is to secure the common ends which recommend themselves to the general will and which cannot be secured without compulsion. But at this point our second question emerges: Is the general will, supposing that its ends cannot be secured without compulsion, to be entirely unfettered, or are there some general considerations which might still exercise a restraint in favor of the liberty of the individual?

This brings us to the question on what that liberty is based. We have seen that each man's liberty involves a restraint upon others, and we are asked to conceive it now as a restraint upon society as a whole. On what grounds is this restraint to be justified? In ordinary phraseology, it would depend upon the rights of the individual,



and we have here to ask what is meant by a right. A right is generally said to be the correlative of a duty. If I have a right against you, you have some duty towards me. The duty may be quite general and purely negative in its character. For instance, I have a right to walk along the street without being pushed off the pavement into the mud, and your duty is merely to give me reasonable room. But, whether general or special, we may agree that the rights and duties of citizens form together a system making up as a whole the moral order recognized by society. In this order each duty is, broadly speaking, that which is expected of the individual; and each right is that which the individual expects of some other person or of society at large. Generically, therefore, a right is a kind of expectation; but it is not only an expectation, but an expectation held to be justified; and the important question is, on what grounds this justification is based. In the first place, it may be a legal right, and the justification then lies in an appeal to law. But, in addition, there are, or there may be, rights which the law does not recognize and which the moral consciousness holds ought to be recognized. These are the moral or ethical rights of men. The older thinkers spoke of them as "natural rights," but to this phrase, if uncritically used, there is the grave objection that it suggests that such rights are independent of society, whereas, if our arguments hold, there is no moral order independent of society and therefore no rights which, apart from the social consciousness, would be recognized at all. Our analysis of the term "right" goes to show that a right is nothing but an expectation which will appeal to an impartial person. A may make a claim on B, and B may refuse the claim. The claim only becomes recognized as a right if some impartial third person (C) upholds A in making it, and on what ground can C as an impartial being base his judgment? As impartial, he is looking at A and B just as two persons equally members of the community with himself. If there exists a rule recognized by the community which covers the case, no question arises. But we are looking at the case in which no rule exists, and C has to frame his decision on first principles. To what in such a case can he look except the common good? If he maintains as a right a general principle of action incompatible with the good of the community, he must hold that what is right is one thing and what is good another, and that not merely by the accidental circumstances of a peculiar case but as a matter of



principle. Unless then we are to suppose such deep-seated conflict in the ethical order we must regard the common good as the foundation of all personal rights. If that is so, the rights of man are those expectations which the common good justifies him in entertaining, and we may even admit that there are natural rights of man if we conceive the common good as resting upon certain elementary conditions affecting the life of society, which hold good whether people recognize them or not. Natural rights, in that case, are those expectations which it would be well for a society to guarantee to its members, whether it does or does not actually guarantee them. If this view is accorded, the more developed the conception of the common good the more completely will a society guarantee the natural rights of its individual members. To extend the conception of the rights of the individual will be one of the objects of statesmanship; to define and maintain the rights of its members will be the ever extending function of government.

Any genuine right then is one of the conditions of social welfare, and the conception of harmonious development suggests that there will be many such conditions governing the various sides of social life. If so the general conception of harmony implies that these conditions, properly understood, must mutually define and limit one another; not only so, it implies that in proportion as they are properly understood they will be found not to conflict with one another but to support and in the end even necessitate one another. Now it is conceivable that all individual rights, e.g. of person and property, might be brought under the general conception of liberty. But we need not press this point. We may assume that there will be various rights of the individual, of the family, and so forth, which owe their validity to the functions they perform in the harmonious development of society. It is clear too that the effective exercise of the common will is also for some purposes—though for what purpose in particular may be a matter on which opinion differs—a condition of the same object. Now in general the problem of social philosophy is to define in principle, and of statesmanship to adjust in practice the bearing of these several conditions. This bearing is to be understood by considering their social value, and thus it remains to state in quite general terms the basis of the value of personal liberty on the one hand and of social control on the other. As to liberty in general, since society is

made up of persons, we prove its necessity sufficiently if we show that a measure of liberty is essential to the development of personality. And since personality consists in rational determination by clear-sighted purpose as against the rule of impulse on the one side or external compulsion on the other, it follows that liberty of choice is the condition of its development. The central condition of such development is self-guidance. We should not oppose self-guidance to guidance by others for the contact with other minds is an integral part of the growth, intellectual or moral, of each mind. But we must oppose it to coercion by external sanctions, which ousts all genuinely ethical considerations and closes the door on rational choice. Liberty then is the condition of mental and moral expansion, and of all forms of associated as well as personal life that rest for their value on spontaneous feeling and the sincere response of the intellect and of the will. It is therefore the foundation not only of all that part of life which rests on personal affection, but also of science and philosophy, of religion, art, and morals.

To recognize liberty on this side is the duty of the state, but to recognize liberty is by no means to abolish restraint. On the contrary, it is only by an organized system of restraints that such liberty is made available for all members of society, for the unpopular opinions as well as the popular ones, for those whose views of life are eccentric as well as for the normal and the commonplace. Even in regard to matters of conscience it is only opinion and persuasion that can be absolutely free, and even here it must be admitted that there are forms of persuasion that are in fact coercive, and it is fair for the state to consider how far the liberty of the younger or weaker must be protected against forms of temptation which overcome the will. Apart from this when opinion leads, however conscientiously, to action, such action may coerce others, and this would bring the state into play in the name of liberty itself. It may, more generally, infringe any right and it is the business of social control to adjust one right to another.

This adjustment is simply one part, though one of the most important parts, of the general function of social control. This function may now be defined in general terms as that of securing the best conditions for the common life (1) so far as these are best obtained by the use of public resources and governmental machinery, (2) so

far as such conditions are only obtainable by the use of compulsion; that is to say, where action is frustrated if it is not universal, and again where in the absence of regulation one man can directly or indirectly constrain another, infringe his rights, obstruct his rational choice, or take advantage of his weakness or ignorance. The first object includes the organization of public services by the state<sup>1</sup> and the provision for all its members of the external conditions of a healthy and efficient civic life. To build on this foundation is the work of the individual, and the scope of personality is increased in proportion as the conditions of its effective development are made universal. The extension of the functions of the state in this direction, accordingly, is due not to a diminished sense of personal responsibility but to a heightened sense of collective responsibility. The second case includes the laying down of certain rules, as in the adoption of general holidays, where in the absence of legal control a general desire might be thwarted by individual and perhaps quite selfish objections. It covers, again, the regulation of contract where experience has shown that the weaker party to a bargain may be forced to consent to that which, if he stood on equal terms, he would never accept. In both cases as has been shown but particularly in the latter the purpose of control is rather to define and enlarge the sphere of liberty than to restrict it. There remains the question of those who are incapable of rational choice,—the feeble-minded or the habitual drunkard,—for whom the value of liberty does not exist. To them society owes the duties of a guardian, and in their case the policy of constraining a man for his own good is no self-contradiction, for the "good" of which they are capable is not that of personal development through the spontaneous action of thought and feeling and will, but the negative one of immunity from the dangers into which their helplessness might lead them. This is the exception proving the rule that a normal human being is not to be coerced for his own good, because as a rational being his good depends on self-determination, and is impaired or destroyed by coercion.

Thus liberty and control are not as such opposed. There are borderland cases where honest thinkers must allow conflict to be pos-

<sup>1</sup> This, as remarked above, does not necessarily involve compulsion, and so far does not affect the question of the limits of liberty. It does, however, intimately concern the cognate question of the limits of personal and collective responsibility.

sible, e.g. the conscientious refusal of a Friend to render military service judged to be necessary for the safety of the community. But the value of liberty is to build up the life of the mind, while the value of state control lies in securing the external conditions, including the mutual restraint, whereby the life of the mind is rendered secure. In the former sphere compulsion only defeats itself. In the latter liberty defeats itself. Hence in the main the extension of control does not impair liberty, but on the contrary is itself the means of extending liberty and may and should be conceived with that very object in view. Thus it is that upon the whole we see a tendency to the removal of restraints in the sphere in which whatever there is of value to mankind depends on spontaneity of impulse, free interchange of ideas, and voluntary coöperation going along with the tendency to draw tighter the bonds which restrain men from acting directly or indirectly to the injury of their fellows and to enlarge the borders of the action of the state in response to a developing sense of collective responsibility. We are dealing with two conditions of harmonious development apparently opposed and requiring themselves to be rendered harmonious by careful appreciation of their respective functions, and the general direction in which harmony is to be sought may be expressed by saying that the further development of the state lies in such an extension of public control as makes for the fuller liberty of the life of the mind.

The problem of liberty is not the only one raised by the movement of opinion which has been traced. There are far-reaching questions of economics involved, to discuss which would take us to the foundation of the right of property. Having, for reasons of time, to confine myself to one aspect of the question, I choose that of the relation of liberty to collective control because it lies at the root of the harmonic conception of society. If we are right in thinking that social evolution has brought us to a point at which the future movement of society may be subjected to rational control, it becomes at once vital to determine how far that control is to be reconciled with the old ideal of freedom.

If the above argument is just, we may conclude that the development of the common life, the collective effort, which has already been in progress in my country for a generation or more, is not adverse to the freedom, the responsibility, or the dignity of the individual. On the contrary it has in the past assisted and may in the future be



expected to further the development of these essential features of a good social order. A more real freedom, a more general and more complete personal independence, a more stable because a more free family life are among the prime objects of the extension of social control. It is here that we realize the concrete meaning of the ideal of harmony as the touchstone of social development. All one-sided progress cramps as much in one direction as it liberates in another. True development is not in metaphor but in essentials, comparable to organic growth—the opening out of each element furthering instead of retarding that of others. Such a development, lastly, it has been my endeavor to show is not in conflict with immovable laws of evolution but is continuous with the line of advance which educed the higher from the lower animal forms, which evolved the human out of the animal species and civilized from barbaric society. The essential condition of this change was not the struggle for existence but the rise and growth of a principle of organic harmony or coöperation which from the first rise of parental care begins to mitigate and finally to restrict the field of struggle. Merely to point to the existence of this tendency was not, we admitted, sufficient to justify it, but we urged that its existence and success suffice to prove the feasibility of the conscious effort to carry through the harmonic principle in social life, and that this is in fact the guiding principle of a rational social philosophy. To apply such a principle, we admitted, is a matter of infinite practical difficulty, but it nowhere founders on any theoretic objections, for no essential element of social value has to be purchased at the expense of the fundamental and irrevocable loss of any other element of essential value. Its emergence constitutes a turning-point to which all previous progress leads up, and from which further progress will proceed with a new directness of aim and steadiness of tread. The keenest critics of the feasibility of social progress we saw rest their case on the tendency of the higher social ethics to preserve inferior types and so lead to racial deterioration. But on this point we saw that if it is true, which is not yet proved, that selection remains essential to social progress, the solution of the difficulty is to be found in the replacement of natural by social selection. At many points in the argument limitations of time have forced me to confine myself to mere illustrations of method in place of the full and lengthy statement of evidence which is requisite for proof. Those methods I would

hope that some of you would follow out for yourselves, so as to verify or correct the conclusion to which I have sought to lead you. That conclusion I may be allowed to state provisionally and it is simply this: that the conception of social progress as a deliberate movement towards the reorganization of society in accordance with ethical ideas is not vitiated by any contradiction. It is free from any internal disharmony. Its possibility rests on the facts of evolution, of the higher tendencies of which it is indeed the outcome. It embodies a rational philosophy, it gives scope and meaning to the best impulses of human nature, and a new hope to the suffering among mankind.

## 16. POLITICAL RIGHTS AND OBLIGATIONS<sup>1</sup>

No hard and fast line can be drawn between civil society and the State. By the State, however, we denote those conditions of social organization and regulation which are most fundamental and most general: conditions which are summed up in and expressed through the general will as manifested in legislation and its execution. As a civil right is technically focused in the right to use the courts, "to sue and be sued," that is in the right to have other claims adjudicated and enforced by a public, impartial authority, so a political right is technically summed up in the power to vote—either to vote directly upon laws or to vote for those who make and carry out laws. To have the right in a legislative assembly to speak for or against a certain measure; to be able to say "yea" or "nay" upon a roll-call; to be able to put into a ballot-box a piece of paper with a number of names written thereon, are not acts which of themselves possess the inherent value of many of the most ordinary transactions of daily life. But the representative and potential significance of political rights exceeds that of any other class of rights. Suffrage stands for direct and active participation in the regulation of the terms upon which associated life shall be sustained, and the pursuit of the good carried on. Political freedom and responsibility express an individual's power and obligation to make effective all his other capacities by fixing the social conditions of their exercise.

*Growth of democracy.* The evolution of democratically regulated States, as distinct from those ordered in the interests of a small

<sup>1</sup>Dewey and Tufts, *Ethics*, pp. 473-482.

group, or of a special class, is the social counterpart of the development of a comprehensive and common good. Externally viewed, democracy is a piece of machinery, to be maintained or thrown away, like any other piece of machinery, on the basis of its economy and efficiency of working. Morally, it is the effective embodiment of the moral ideal of a good which consists in the development of all the social capacities of every individual member of society.

### *Present Problems*

1. *Distrust of government.* Present moral problems connected with political affairs have to do with safeguarding the democratic ideal against the influences which are always at work to undermine it, and with building up for it a more complete and extensive embodiment. The historic antecedent of our own governmental system was the exercise of a monopoly by a privileged class.<sup>1</sup> It became a democratic institution partly because the King, in order to secure the monopoly, had to concede and guarantee to the masses of the people certain rights as against the oligarchical interests which might rival his powers; and partly because the centralization of power, with the arbitrary despotism it created, called out protests which finally achieved the main popular liberties: safety of life and property from arbitrary forfeiture, arrest, or seizure by the sovereign; the rights of free assembly, petition, a free press, and of representation in the law-making body.

Upon its face, the struggle for individual liberty was a struggle against the overbearing menace of despotic rulers. This fact has survived in an attitude towards government which cripples its usefulness as an agency of the general will. Government, even in the most democratic countries, is still thought of as an external "ruler," operating from above, rather than as an organ by which people associated in pursuit of common ends can most effectively coöperate for the realization of their own aims. Distrust of government was one of the chief traits of the situation in which the American nation was born.

<sup>1</sup> The term "the King's Peace," as the equivalent in England for the peace and order of the commonwealth, goes back to a time when literally it meant a private possession. Pollock says that the desire to collect larger revenues was the chief motive for pushing the royal jurisdiction against lesser local authorities.—Essay on the King's Peace in *Oxford Essays*

It is embodied not only in popular tradition, and party creeds, but in our organic laws, which contain many provisions expressly calculated to prevent the corporate social body from effecting its ends freely and easily through governmental agencies.<sup>1</sup>

There can be no doubt that the movement to restrict the functions of government, the laissez-faire movement, was in its time an important step in human freedom, because so much of governmental action was despotic in intention and stupid in execution. But it is also a mistake to continue to think of a government which is only the people associated for the assuring of their own ends as if it were the same sort of thing as a government which represented the will of an irresponsible class. The advance of means of publicity, and of natural and social science, provides not only protection against ignorant and unwise public action, but also constructive instrumentalities of intelligent administrative activities. One of the chief moral problems of the present day is, then, that of making governmental machinery such a prompt and flexible organ for expressing the common interest and purpose as will do away with that distrust of government which properly must endure so long as "government" is something imposed from above and exercised from without.

2. *Indifference to public concerns.* The multiplication of private interests is a measure of social progress: it marks the multiplication of the sources and ingredients of happiness. But it also invites neglect of the fundamental general concerns which, seeming very remote, get pushed out of sight by the pressure of the nearer and more vivid personal interests. The great majority of men have their thoughts and feelings well occupied with their family and business affairs; with their clubs for recreation, their church associations, and so on. "Politics" becomes the trade of a class which is especially expert in the manipulation of their fellows and skilled in the "accelera-

<sup>1</sup>Says President Hadley: "The fundamental division of powers in the Constitution of the United States is between voters on the one hand, and property-owners on the other. The forces of democracy on one side, divided between the executive and the legislature, are set over against the forces of property on the other side, with the judiciary as arbiter between them. . . . The voter could elect what officers he pleased, so long as these officers did not try to do certain duties confided by the Constitution to the property-holders. Democracy was complete as far as it went, but constitutionally it was bound to stop short of social democracy."



tion" of public opinion. "Politics" then gets a bad name, and the aloofness from public matters of those best fitted, theoretically, to participate in them is further promoted. The saying of Plato, twenty-five hundred years ago, that the penalty good men pay for not being interested in government is that they are then ruled by men worse than themselves, is verified in most of our American cities.

3. *Corruption.* This indifference of the many, which throws the management of political affairs into the hands of a few, leads inevitably to corruption. At the best, government is administered by human beings possessed of ordinary human frailties and partialities; and, at the best, therefore, its ideal function of serving impartially the common good must be compromised in its execution. But the control of the inner machinery of governmental power by a few who can work in irresponsible secrecy because of the indifference and even contempt of the many, incites to deliberate perversion of public functions into private advantages. As embezzlement is appropriation of trust funds to private ends, so corruption, "graft," is prostitution of public resources, whether of power or of money, to personal or class interests. That a "public office is a public trust" is at once an axiom of political ethics and a principle most difficult to realize.

In our own day, a special field has been opened within which corruption may flourish, in the development of public utility companies. Railways, city transportation systems, telegraph and telephone systems, the distribution of water and light, require public franchises, for they either employ public highways or they call upon the State to exercise its power of eminent domain. These enterprises can be carried on efficiently and economically only as they are either monopolies, or quasi-monopolies. All modern life, however, is completely bound up with and dependent upon facilities of communication, intercourse, and distribution. Power to control the various public-service corporations carries with it, therefore, power to control and to tax all industries, power to build up and cast down communities, companies, and individuals, to an extent which might well have been envied by royal houses of the past. It becomes then a very special object for great corporations to control the agencies of legislation and administration; and it becomes a very special object for party leaders and bosses to get control of party machinery in order to act as brokers in franchises and in special favors—sometimes directly for money,

sometimes for the perpetuation and extension of their own power and influence, sometimes for the success, through influential support and contribution to party funds, of the national party with which they are identified.

4. *Reforms in party machinery.* The last decade or so of our history has been rife with schemes to improve political conditions. It has become clear, among other things, that our national growth has carried with it the development of secondary political agencies, not contemplated by the framers of our constitutions, agencies which have become primary in practical matters. These agencies are the "machines" of political parties, with their hierarchical gradation of bosses from national to ward rulers, bosses who are in close touch with great business interests at one extreme, and with those who pander to the vices of the community (gambling, drink, and prostitution) at the other; parties with their committees, conventions, primaries, caucuses, party-funds, societies, meetings, and all sorts of devices for holding together and exciting masses of men to more or less blind acquiescence.

It is not necessary to point out the advantages which parties have subserved in concentrating and defining public opinion and responsibility in large issues; nor to dwell upon their value in counteracting tendencies which break up and divide men into a multitude of small groups having little in common with one another. But behind these advantages a vast number of abuses have sheltered themselves. Recent legislation and recent discussion have shown a marked tendency formally to recognize the part actually played by party machinery in the conduct of the State, and to take measures to make this factor more responsible in its exercise. Since these measures directly affect the conditions under which the government as the organ of the general will does its work of securing the fundamental conditions of equal opportunity for all, they have a direct moral import. Such questions as the Australian ballot, the recognition of party emblems and party groupings of names; laws for direct primary nominations; the registering of voters for primary as well as for final elections; legal control of party committees and party conventions; publicity of accounts as to the reception and use of party funds; forbidding of contributions by corporations, are thus as distinctly moral questions as are bribery and ballot-box stuffing.

5. *Reforms in governmental machinery.* Questions that concern the respective advantages of written versus unwritten constitutions are in their present state problems of technical political science rather than of morals. But there are problems, growing out of the fact that for the most part American constitutions were written and adopted under conditions radically unlike those of the present, which have a direct ethical import. As already noted, our constitutions are full of evidences of distrust of popular coöperative action. They did not and could not foresee the direction of industrial development, the increased complexity of social life, nor the expansion of national territory. Many measures which have proved indispensable have had therefore to be as it were smuggled in; they have been justified by "legal fictions" and by interpretations which have stretched the original text to uses undreamed of. At the same time, the courts, which are the most technical and legal of our political organs, are supreme masters over the legislative branch, the most popular and general. The distribution of functions between the states and the nation is curiously ill-adapted to present conditions (as the discussions regarding railway regulation indicate); and the distribution of powers between the state and its municipalities is hardly less so, resting in theory upon the idea of local self-government, and in practice doing almost everything possible to discourage responsible initiative for the conduct of their own affairs on the part of municipalities.

These conditions have naturally brought forth a large crop of suggestions for reforms. It is not intended to discuss them here, but the more important of them, so far as involving moral questions, may be briefly noted. The proposals termed the initiative and the referendum and the "recall" (this last intended to enable the people to withdraw from office any one with whose conduct of affairs they are dissatisfied) are clearly intended to make the ideal of democratic control more effective in practice. Proposals for limited or complete woman's suffrage call attention to the fact that one-half of the citizenship does the political thinking for the other half, and emphasizes the difficulty under such conditions of getting a comprehensive social standpoint (which, as we have already seen, is the sympathetic and reasonable standpoint) from which to judge social issues. Many sporadic propositions from this and that quarter indicate a desire to revise constitutions so as to temper their cast-iron quality and increase their flexible



adaptation to the present popular will, and so as to emancipate local communities from subjection to State legislatures in such a way as to give them greater autonomy and hence greater responsibility, in the management of their own corporate affairs. It is not the arguments pro and con that we are here concerned with; but we are interested to point out that moral issues are involved in the settlement of these questions. It may, moreover, be noted that dividing lines in the discussion are generally drawn, consciously or unconsciously, on the basis of the degree of faith which exists in the democratic principle and ideal, as against the class idea in some of its many forms.

6. *Constructive social legislation.* The rapid change of economic methods, the accumulation and concentration of wealth, the aggregation of capital and labor into distinct bodies of corporations and trusts, on one side, and federated labor unions, on the other; the development of collective agencies of production and distribution, have brought to the focus of public attention a large number of proposals for new legislation, almost all of which have a direct moral import. These matters are passed over here with the reminder that, while on one side they are questions of the ethics of industry, they are also questions of the right and wrong use of political power and authority.<sup>1</sup> We may also note that the theoretical principle at issue, the extension versus the restriction of governmental agencies, so far as it is not simply a question of what is expedient under the given circumstances, is essentially a question of a generalized versus a partial individualism. The democratic movement of emancipation of personal capacities, of securing to each individual an effective right to count in the order and movement of society as a whole (that is, in the common good), has gone far enough to secure to many, more favored than others, peculiar powers and possessions. It is part of the irony of the situation that such now oppose efforts to secure equality of opportunity to all on the ground that these efforts would effect an invasion of individual liberties and rights: i.e., of privileges based on inequality. It requires perhaps a peculiarly sympathetic imagination to see that the question really involved is not one of magnifying the powers of the State against individuals, but is one of making individual liberty a more extensive and equitable matter.

<sup>1</sup>Further treatment of this subject will be found in chaps. xxii and xxv of Dewey and Tufts, *Ethics*.—ED.



7. *The international problem.* The development of national States marks a tremendous step forward in the realization of the principle of a truly inclusive common good. But it cannot be the final step. Just as clans, sects, gangs, etc., are intensely sympathetic within and intensely exclusive and jealous without, so States are still arrayed against States, with patriotism, loyalty, as an internal virtue, and the distrust and hatred of divisive hostility as the counterpart vice. The idea of humanity in the abstract has been attained as a moral ideal. But the political organization of this conception, its embodiment in law and administrative agencies, has not been achieved. International law, arbitration treaties, and even a court like the Hague tribunal, whose power is sentimental rather than political, mark steps forward. Nothing could be more absurd, from the historic point of view, than to regard the conception of an international State of federated humanity, with its own laws and its own courts and its own rules for adjudicating disputes, as a mere dream, an illusion of sentimental hope. It is a very slight step to take forward compared with that which has substituted the authority of national States for the conflict of isolated clans and local communities; or with that which has substituted a publicly administered justice for the régime of private war and retaliation. The argument for the necessity (short of the attainment of a federated international State with universal authority and policing of the seas) of preparing in peace by enlarged armies and navies for the possibility of war, must be offset at least by recognition that the possession of irresponsible power is always a direct temptation to its irresponsible use. The argument that war is necessary to prevent moral degeneration of individuals may, under present conditions, where every day brings its fresh challenge to civic initiative, courage, and vigor, be dismissed as unmitigated nonsense.

## 17. THE MORAL CRITERION OF POLITICAL ACTIVITY<sup>1</sup>

The moral criterion by which to try social institutions and political measures may be summed up as follows: The test is whether a given custom or law sets free individual capacities in such a way as to make them available for the development of the general happiness or the common good. This formula states the test with the emphasis falling

<sup>1</sup>Dewey and Tufts, *Ethics*, pp. 482-485.

upon the side of the individual. It may be stated from the side of associated life as follows: The test is whether the general, the public, organization and order are promoted in such a way as to equalize opportunity for all.

*Comparison with the individualistic formula.* The formula of the individualistic school (in the narrow sense of that term—the laissez-faire school) reads: The moral end of political institutions and measures is the maximum possible freedom of the individual consistent with his not interfering with like freedom on the part of other individuals. It is quite possible to interpret this formula in such a way as to make it equivalent to that just given. But it is not employed in that sense by those who advance it. An illustration will bring out the difference. Imagine one hundred workmen banded together in a desire to improve their standard of living by securing higher wages, shorter hours, and more sanitary conditions of work. Imagine one hundred other men who, because they have no families to support, no children to educate, or because they do not care about their standard of life, are desirous of replacing the first hundred at lower wages, and upon conditions generally more favorable to the employer of labor. It is quite clear that in offering themselves and crowding out the others, they are not interfering with the like freedom on the part of others. The men already engaged are "free" to work for lower wages and longer time, if they want to. But it is equally certain that they are interfering with the real freedom of the others: that is, with the effective expression of their whole body of activities.

The formula of "like freedom" artificially isolates some one power, takes that in the abstract, and then inquires whether it is interfered with. The one truly moral question is what relation this particular power, say the power to do a certain work for a certain reward, sustains to all the other desires, purposes, and interests of the individual. How are they affected by the way in which some one activity is exercised? It is in them that the concrete freedom of the man resides. We do not know whether the freedom of a man is interfered with or is assisted until we have taken into account his whole system of capacities and activities. The maximum freedom of one individual consistent with equal concrete or total freedom of others, would indeed represent a high moral ideal. But the individualistic formula is con-

demned by the fact that it has in mind only an abstract, mechanical, external, and hence formal freedom.

*Comparison with the collectivistic formula.* There is a rival formula which may be summed up as the subordination of private or individual good to the public or general good: the subordination of the good of the part to the good of the whole. This notion also may be interpreted in a way which renders it identical with our own criterion. But it is usually not so intended. It tends to emphasize quantitative and mechanical considerations. The individualistic formula tends in practice to emphasize the freedom of the man who has power at the expense of his neighbor weaker in health, in intellectual ability, in worldly goods, and in social influence. The collectivistic formula tends to set up a static social whole and to prevent the variations of individual initiative which are necessary to progress. An individual variation may involve opposition, not conformity or subordination, to the existing social good taken statically; and yet may be the sole means by which the existing State is to progress. Minorities are not always right; but every advance in right begins in a minority of one, when some individual conceives a project which is at variance with the social good as it has been established.

A true public or social good will accordingly not subordinate individual variations, but will encourage individual experimentation in new ideas and new projects, endeavoring only to see that they are put into execution under conditions which make for securing responsibility for their consequences. A just social order promotes in all its members habits of criticizing its attained goods and habits of projecting schemes of new goods. It does not aim at intellectual and moral subordination. Every form of social life contains survivals of the past which need to be reorganized. The struggle of some individuals against the existing subordination of their good to the good of the whole is the method of the reorganization of the whole in the direction of a more generally distributed good. Not order, but orderly progress, represents the social ideal.

## CHAPTER V

### SOCIAL PROGRESS

#### 18. THE MEANING OF PROGRESS<sup>1</sup>

Like every age and every state of human society the period in which we live has its merits and defects, its elements of success and failure. Contemporary critics assuming the part of candid friends are perhaps more concerned with the failures, and the note of pessimism sounds clearly enough in much of the literature of the day. But depreciation of the present, gloomy views of the future, and idealization of the past are common characteristics of literary criticism. If literature is evidence, we could construct a chain of testimony proving the continuous deterioration of humanity from the time of Hesiod to the present day. The past, when it is seen at all, appears always in a halo of romance. Just as in our own personal memory many things which we should be exceedingly loath to experience anew become positively enjoyable in the mellowness of retrospect, as the contrast of some great hardship forms a pleasing background for present comfort, so in the memory of the race much that we should be sorry to live through again in real earnest acquires the tinge of romance when viewed at a safe distance. Whereas the discomforts, the ugliness, and the squalor of the present afflict us with all the insistence of grim reality, the corresponding elements in the past are either forgotten or are softened and transfigured by the haze of time. Hence it is that our view of historical change tends to be distorted in the direction of pessimism, and in any attempt at a scientific measure of social progress we must be on our guard against this bias of social memory. Those who are most zealous for social improvement will indeed be the last to minimize the evils that exist. But without yielding to any such temptation there is, I would suggest,

<sup>1</sup>From *Social Evolution and Political Theory* (pp. 1-12), by Leonard T. Hobhouse, D. Litt., Professor of Sociology in the University of London. Copyright, 1911, by the Columbia University Press, New York.



one compensatory element of which the prevalence of a somewhat pessimistic criticism is itself the proof. There was probably never a time at which among civilized peoples there was so much diffused sensitiveness to any form of social ailment. If we were briefed to defend our own time, the line to take would surely be, not that its evils are few or small, but rather that every evil calls forth a strong and persistent effort to cure it. Such effort is not indeed new, but it may be fairly maintained that it persists and grows in volume and seriousness, that it enlists an increasing proportion of human effort and ability, and that as it gathers strength and substance it is less content to deal with symptoms and effects, and becomes more intent on the discovery and eradication of causes. In every civilized country there is an army of men and women at work, some trusting to voluntary effort and mutual aid, others pinning their faith to governments and agitating for legislative reforms, and yet others content for the time to investigate facts, examine into causes, and pave the way for a more assured progress in the future. The pessimistic writer will not deny the existence or the sincerity of these manifold forms of social effort, but it is open to him to question their efficiency. On this point a good deal might be said. I think it would be possible, so far at least as my own country is concerned, to show by a series of comparisons of the condition of the people in the earlier stages of the industrial revolution with their condition at the present day that the efforts of the reformers have not been wasted. I shall not, however, attempt this task at present, for I am going instead to make an admission. If my supposed critic were to scrutinize the terms in which I described the efforts of reformers, there is one word on which he might fasten with some effect. I spoke of "an army of men and women." "What army?" he might reply. "I see clearly enough, great numbers of men and women who interest themselves in public questions. But an army means a drilled and organized force, moving towards a clear objective. This," he might say, "is precisely what I do not find among the enthusiasts for social reform. What I find is something much more like a mob, or, if we are to keep to military metaphors, something like a miscellaneous assortment of guerilla bands, acting without concert, often at cross purposes, sometimes coming into violent conflict, and at best with no clear sense of any common cause. There are individuals and organized bodies, if you will, who concentrate

their energies on temperance, but who concentrate so completely that they care for nothing else. There are those who combat pauperism and preach thrift. There are enthusiasts who find land questions at the root of all good and all evil. There are the apostles of housing and sanitary reform. There are Tariff Reformers—an expression which has, so to say, opposite signs in England and the United States. There are Trade Unionists, Cooperators, Socialists, and again there is the insistent school of Eugenists, who treat all social reforms as mere subsidiary changes of the environment and insist that the modification of the race by selection is the only matter of vital moment. In a word there are thousands and tens of thousands vaguely interested in social progress, and keenly interested in some particular question which has come within the field of their special experience or to which they have been led to give personal attention. Here and there is to be found a broader-minded person who recognizes the wholeness of things, but his influence is small. The driving force is all with the sectional spirit, and that is why you get little or no general progress.”

With one part of this indictment I should agree. Notwithstanding all narrowness and short-sightedness I think that something has been done, but it has been done at the expense of a vast and disproportionate waste of effort. If this waste is to be avoided and the aggregate of social effort is now to have the measure of success which it deserves, it must be through the growth of a common understanding, through the emergence of clearer ideas of social progress as a whole, and by consequence of the mutual relations of its constituent parts. People are apt to turn from such questions as abstract and academic, but there are seemingly academic questions which are charged with very real meaning, and the unity of social organisms and the interrelation for good and for evil of social changes is no mere form of words, but a way of expressing a deep-seated truth which those who ignore it will in practice strike on sooner or later. You may remember a certain simile employed by Mr. Herbert Spencer in his *Study on Sociology*. Give a man a sheet of metal with a dint in it, he says, and ask him to flatten it out. What does he do? If he knows nothing of metal work, he takes a hammer and knocks the dint flat, only to find that it has reappeared elsewhere. He applies the hammer again at the new point with the same result, and so he goes on till he convinces

himself that dints are not to be levelled out by this direct and easy method. So it is, urges Mr. Spencer, with society. We find some evil or evils which we seek to prevent by direct and forcible means, only to find, says this critic of social effort, that a corresponding evil appears somewhere else. We put down overt crime only to find that some form of secret vice is increasing. A temperance crusade suppresses drunkenness, and it is discovered that those who used to drink now find an outlet for excitement in gambling. Compensation for accidents is secured by law to workmen, and in consequence it is alleged that elderly workmen are refused situations. Workmen form trade unions to maintain and improve the conditions of their work, and no sooner do they succeed than their employers imitate them and form federations by which the unions are overpowered. Strikes are replaced by mutual agreements which are to initiate an era of industrial peace, and it is found that the wider the agreement the less it meets the local difficulties of mine and workshop, and we see workmen striking substantially against their own leaders. I need not here inquire whether in all these instances the allegation is correct, nor whether even if that be so there may not be some net gain. I am concerned only with the simple and preliminary point, to which Mr. Spencer did well to call attention, that every change, however good in itself, provokes unforeseen reactions, and that if we are to achieve permanent and assured good we must as far as possible keep in view the life of society as a whole and seek not jealously to magnify our own little sectional interest at the expense of the others, but rather to correlate it with the work that others are doing and endeavor to induce in them the same spirit. In sociology as in all sciences specialism is a necessity and it is also a danger. It is a necessity for the simple reason that human capacity is limited and it is not given to man to acquire sound knowledge and adequate skill in many departments at once. It is a danger because social life is no more divisible into independent sections than the human body is divisible into independent organisms. Now the belief that "there is nothing like leather" is *mutato nomine* universal. To exaggerate the importance of what one is doing oneself is the necessary human illusion. It is the stimulant which sustains. Unfortunately it is also the stimulant which intoxicates, and in sober mood we may well engage ourselves in the effort to find some prophylactic. In the present case the prophylactic



that we need, if I am right, is an articulate social philosophy. We ought to inquire whether underlying the diffused mass of social effort there is discoverable any coherent scheme of social betterment or progress as a whole. If again we can find any such general conception, we have to ask whether it will hold water, and this will divide itself into two main questions. Before we can decide whether any purpose which men may propound to themselves is valid and reasonable we must determine, first, whether it is self-consistent, or whether if thought out it would evolve any contradictions which would reduce it to meaningless confusion; and secondly, whether it lies within the limits of practical possibility. The first of these questions is the subject-matter of social philosophy, the second belongs to the theory of social evolution. I shall not be able within the compass of these lectures to deal with either question with the fullness which it deserves, but for reasons which will appear as we proceed I cannot limit myself to one alone. I shall therefore (1) attempt a summary definition of the nature and conditions of progress, and shall proceed (2) to consider how far progress as defined has actually been realized in history, and how far it is capable of further and future realization. In place of an attempt to cover the whole ground in a summary which would necessarily be vague and thin, I shall, both in dealing with past and present, confine myself in the main to one side of social life, merely glancing at others when the progress of the argument makes it necessary to do so.

There are, however, certain difficulties which the conception of progress meets at the outset, and it will be better to deal with these before proceeding to our constructive argument.

For this purpose I will ask you to be content with a rough preliminary definition of progress, and let me do what I can within my limits to make it a little more precise at a later stage. Now you will have noticed that I have used the term "evolution" in regard to human society and also the term "progress." This should imply that there is some difference between them, and in point of fact, to grasp this difference is in my view the beginning of understanding in these matters. By evolution I mean any sort of growth; by social progress, the growth of social life in respect of those qualities to which human beings attach or can rationally attach value. Social progress, then, is only one among many possibilities of social evolution. At least it



is not to be assumed that any and every form of social evolution is also a form or a stage in social progress. For example, a caste system is a product of social evolution, and the more rigid and narrow the caste, the more complex the hierarchy, the more completely has the caste system evolved. In proportion, that is, as a loose and incipient caste system hardens into an extreme and rigid caste system, there is a distinct process of social evolution going forward; but most of us would question very strongly whether it could be considered in any sense as a phase of social progress. Judged from the standpoint of human values, it looks more like retrogression, or perhaps still more like divergence into a side track, from which there is no exit save by going back over a good deal of the ground travelled. So again there is at the present day a vigorous evolution of cartels, monopolies, rings, and trusts; there is an evolution of imperialism, of socialism, of nationalism, of militarism, in a word, of a hundred tendencies as to the good or evil of which people differ. The fact that a thing is evolving is no proof that it is good, the fact that society has evolved is no proof that it has progressed. The point is important because under the influence of biological conceptions the two ideas are often confused, and the fact that human beings have evolved under certain conditions is treated as evidence of the value of those conditions, or perhaps as proving the futility of ethical ideas which run counter to evolutionary processes. Thus in an article by a clever exponent of eugenic principles I find a contemptuous reference to "the childlike desire to make things 'fair,' which is so clearly contrary to the order of a universe which progresses by natural selection."<sup>1</sup> In this brief remark you will observe two immense assumptions, and one stark contradiction. The first assumption is that the universe progresses—not humanity, observe, nor the mass of organic beings, nor even the earth, but the universe. The second assumption is that it progresses by natural selection, a hypothesis which has not yet adequately explained the bare fact of the variation of organic forms on the surface of this earth. The contradiction is that progress is incompatible with fairness, the basic element in all judgments of value, so that we are called upon to recognize as valuable that by which our fundamental notions of value are set at naught. It may be replied that the process of things has nothing to do with human ideas of value. That of course

<sup>1</sup> Mr. W. C. D. Whetham, in the *Eugenic Review*, November, 1910.

is perfectly possible, and is the point we shall have to examine. But in that case no one has a right to speak of progress, a term which connotes value, in relation to the process of things. If there exist laws of mechanical necessity which involve the defeat of human effort based on human judgments of value, then it is true that human effort must be forever frustrate, but it is untrue that human effort must seek to ally itself with its enemy. If the process of the universe is inherently opposed to the ethical order, it follows that the ethical order is inherently opposed to the process of the universe. In this state of things the position of humanity would be very unfortunate. It could not hope to achieve any permanent good. But it would still be the height of unreason for humanity to throw its efforts for whatever they may be worth on the side of those forces which by hypothesis are working against the best elements in its life. The only rational course in so bad a situation would be first to see what could be saved from the wreck, or, if nothing could be done, then to remain passive and endure with what patience we could command. Why we should take active pains to forward a process which conflicts with our fundamental conceptions of what is valuable is a question which answers itself.

Of course this is not the way in which the question ordinarily presents itself. By studying certain sides of organic evolution people arrive at a particular hypothesis of the nature of the process. They erect this hypothesis into an universal and necessary law, and straightway call upon every one else to acknowledge the law and conform to it in action. Unaccustomed to philosophical analysis, and contemptuous of that to which they are unaccustomed, they do not see that they have passed from one sense of law to another, that they have confused a generalization with a command, and a statement of facts with a principle of action. They accordingly miss the starting-point from which a distinct conception of progress and its relation to human effort becomes possible. But for any useful theory of the bearing of evolution on social effort this conception is vital. We can get no light upon the subject unless we begin with the clear perception that the object of social effort is the realization of ends to which human beings can reasonably attach value, that is to say, the realization of ethical ends; and this being understood, we may suitably use the term "progress" of any steps leading towards such realization. Now it may be said that human valuations are themselves often obscure, confused,

and contradictory. That is, in fact, the reason why we need a social philosophy to reduce them to a rational order. But we are not asking for the moment what the rational judgment of man would approve. We are contending for the preliminary point, that without its approval there can be no talk of progress, that to hold up a process to admiration, to praise it as good, to accept and forward it, is, in fact, to pass on it a judgment of approval, and that to do these things and in the same breath to scorn the principle which is the pivot of any ethical approval is a contradiction. If this and allied principles are false and meaningless, that requires independent proof. If justice, fairness, mutual aid, benevolence, pity, are inherently confused and contradictory ideas, they cannot serve as bases of rational approval or disapproval. But this has to be demonstrated, and there is no beginning of demonstration in the mere fact that such qualities as these are opposed to the naked struggle for existence.

Our conclusion so far is that the nature of social progress cannot be determined by barely examining the actual conditions of social evolution. Evolution and progress are not the same thing. They may be opposed. They might even be so fundamentally opposed that progress would be impossible, and whether this is so is one of the two questions which we distinguished above, and which I shall proceed to discuss. I take occasion only to remind you that the other question was—In what does progress consist? and to this we have given the preliminary answer that it means the realization of an ethical order; and we have now further seen that the nature of this order is not to be determined by asking whether it conforms to natural processes, but by asking whether it yields rational and coherent guidance to human effort.

## 19. PROGRESS IN EVOLUTION<sup>1</sup>

### *What is Meant by Progress?*

When we ask if the gardener is making progress with his work, if the patient is making progress towards health, if the investigation is making progress towards a solution of the problem, every one knows what we mean by progress. We mean getting nearer a desired result,

<sup>1</sup>By J. Arthur Thomson, M.A., LL.D., Regius Professor of Natural History in Aberdeen University. Adapted from *The Control of Life*, chap. ix. Copyright, 1921, by Henry Holt and Company, New York.



which is clearly defined. But what do we mean when we speak of the progress of the human race or of a nationality? We cannot say that we mean evolution or improvement or betterment, for that is merely using another word. It is not satisfactory to say that progress is movement to a desired result, for what is the criterion of the value of the desired result? It is a common argument in favour of some scheme that it makes for progress. But what is this mysterious progress, this racial, or national, or civic progress?

*Cosmic development.* Long, long ago our solar system was established around a central sun. It seems likely that the earth was heaved off from the central mass as a spiral nebula, and that the other planets had a similar origin. During a prolonged period, the earth consolidated and became fit to be a home of life. Is increase of intricacy and definiteness necessarily progressive, or is the note of progress in the possibility of something new? The integration of the earth and all that in it was, opened up the possibility of living creatures. If it was not progress, it was surely in that direction.

*Organic evolution.* Many millions of years ago, in some unknown way, living creatures began to be upon the earth; and as age followed age, they were succeeded by forms on the whole more complicated, controlled, emancipated, and intelligent. Now, if the advent of more masterful, controlled, free, intelligent forms of life means progress, then organic evolution shows progress. There has been frequent retrogression and degeneracy, there are many parasites, there are blind alleys of great complexity which are puzzling to the hasty-minded; but the larger fact is an onward sweep.

On the whole, common sense regards it as certain that there has been in Organic Evolution something like what Lotze thought he discerned—"an onward advancing melody." There was a time when there were no backboned animals except Fishes; ages passed and there were Fishes, Amphibians, and Reptiles; ages passed and there were also Birds and Mammals. Was not this progress? And yet, why do we feel sure that Birds and Mammals mark an advance on Reptiles? It cannot be mere complexity. It is because they are more controlled or integrated, more masters of their fate, with more mentality. So progress means movement towards certain ideals which we cherish. It is a verdict based on our sense of values. There is a clue here that we must hold to. Evolution on the whole is integrative; it



makes against disintegration and disorder, against instability, against the entropy or degradation of energy which marks the inorganic.

It has to be borne in mind that with the evolution of the type there was correlated an evolution of interrelations binding lives together in a *systema naturae*, a web of life whose pattern becomes more and more significant. This external registration acted along with the organismal or hereditary registration in conserving evolutionary gains once made; it was at once a condition and an organon of progress. The higher animal was able to see more meaning in the world, but there was also more meaning to discover.

In any case, it is plain that there has been an increasing solidarity in Animate Nature, and much that seemed at first insignificant is now known to contribute fundamentally to the stability of the superstructure in which we discern progressiveness most clearly. The Kingdom of Man depends on a peculiar quality of a green pigment; the vigorous life of higher animals depends on another pigment; flowers depend on insects; fishes depend on water-fleas, infusorians, and sea-dust. Even when a race becomes extinct, it would be rash to say that it has lived in vain.

The critic may intervene, however, and say: "No doubt Mammals, for instance, have more control, more freedom, more mind than Reptiles have; but are you not forgetting that they began to run new risks, to make new kinds of mistakes, to suffer pain, to fear?" To which the answer may be made: "Granting the taxes on progress and the pains of progress, it was worth while that Mammals should have evolved." Yet if pressed to say why we feel sure that it was worth while, must we not answer (1) that the evolutionary process which led to Mammals was making in the direction of Man and of Man's kingdom, and (2) that it was making towards a fuller realisation of what we value most—control, freedom, understanding, and love? Progress is, of course, a modern and sociological concept, meaning increase in the realisation of what the racial consciousness has most persistently held to be of the highest value, but our point is that there is something analogous to this in the great trends of integrative evolution.

*The ascent of Man.* The evolution of organisms has its climax in the ascent of Man, the establishment of societary forms, the process of civilisation, the march of human history. Now, no one will say

that the march of human history is in itself progress, in the sense of necessarily leading to the enrichment of life. Many of the changes—perhaps inevitable—have been very miserable at the time and of dubious benefit when effected. Many aspects of the so-called Industrial Revolution in Great Britain were full of misery and it is open to question whether we are the better for Industrialism. And what does “the better” mean?

When we contrast the Bird and Mammal world with the world before they emerged, we say “progress,” meaning movement towards the actualisation of what we regard as of the highest value. We have a gamut of millions of years and we get a good contrast. But can the same be said of the much shorter span covered by human history? Is not humanity like Sisyphus, ever rolling the stone up the hill, only to have it tumble down again? And yet, whoever doubts human progress should think of our ancestors—as Æschylus pictured them—living in caves, without fire, without wood-work, without system, without seasons, without foresight. A fairly accurate picture to be contrasted with Man’s conditions to-day. Can any one doubt human progress on a long view?

### *Progress a Fact*

The facts of organic evolution, considered broadly, compel us to believe in progress, and the same is probably true in regard to human history. But reasoned scepticism as to the reality of progress (as in the recent studies by Professor Bury and Dean Inge) is very useful. For we have no right to assume that mere carrying on, or even struggling on, is progress, i.e. movement in the direction of realising what the racial consciousness holds to be of most value. We cannot trust to ratiocination, for we invent political and economic theories, which are conscious or unconscious attempts to justify our practice before the tribunal of reason.

*Scepticism as to progress.* Is progress at present demonstrable or may this be a period of retrogression in the species or in part of the species? Is progress so clear in our midst? The answer, “In some things Yes, in others No; in some circles Yes, in others No,” is true; but it suggests that our definition is still incomplete. When we think of the seamy side of modern life (e.g. our present-day *panem*

*et circenses*: subsidised bread and cinemas); when we remember that the glory that was Greece was largely based on slavery, and was contemporary with an intolerable view of womankind, and eventually with little in the way of home life—one of man's surest gains in well-being, we see that we must add to our definition,—progress is a balanced or harmonious movement towards a fuller embodiment of the highest values. We are tired of cackle about progress when it is cheek by jowl with the misery of multitudes. A social body cannot be making progress as a whole if it has a long tail—of those who do not have their chance. Equalitarianism is biologically a fantastic fallacy, but we must work towards a reasonable equality of opportunity to allow those who believe that they are more than equals of their superiors to prove their claim. We see, then, that the idea of progress is in process of evolution, for we have added to it the idea of social integration. A social body cannot be making more than particulate progress, if it contains a large proportion of members who do not get a fair chance.

*The higher values.* Man's ideals are the reaching forward of his desires when he is at his best, and progress is an integrated movement towards their fuller embodiment. So in our definition of progress we must give first place to those values that we are surest about—the truth and the seeking of it, the beautiful and the making of it, the good and the doing of it. These values we call absolute, because they are desirable as ends in themselves, because we cannot have too much of them, because they never bring satiety, because they are their own reward, and because as civilisation deepens they have an increasing survival value.

*Idealist and realist.* Here we meet a familiar difficulty. We are surest about the true, the beautiful, and the good. When we are at our best the best part of us declares that these are best. A certain type of mind, idealistic we may say, keeps close to these highest values, and conquers the world by other-worldliness. Another type of mind, realistic we may say, is more matter-of-fact, finding the supreme values too ærial. The realists wish to see the goodness of God in the land of the living—that is to say, to see progress in the here and now, not so much in the cosmos as in their own region. There is no contradiction, of course, but there is a difficulty. We are facing one of the deepest dichotomies of human temperament, that

between idealists and realists, that between the philosophical and the scientific.

One way of meeting the difficulty may be briefly stated. The true, the beautiful, the good are supreme values—intellectual, emotional, moral—the ideals of, head, heart, and hand—but below them there are fundamental values, especially two, (1) the economical use of energy and the increase of material resources, and (2) health (including adaptation to bracing surroundings). Without these there cannot be stability or persistence. Would it be progress to have a race of very wise men and women, all invalids? A vigorous fool would be a great relief. Would it be progress to have a beautiful race, relatively sterile? Would it be progress to have a very good race, without joy? So must we not say that there are physical and biological pre-conditions of social progress, the physical pre-condition of mastering the powers of Nature, the biological pre-condition of good breed, good work, and good place—eugenics, eutechnics, and utopias?

*Definition of progress.* So our definition now runs: Progress is a balanced movement of a social whole towards the fuller embodiment of the supreme values, but at the same time towards a fuller realisation of the physical and biological pre-conditions which secure persistence.

There is probably more than verbal value here. On the one hand, insistence on the biological and physical pre-conditions may help to make idealism more practical. Is a vote of much moment if we cannot have a bath? Is even beauty of great price if we have not time to look at it? "A poor life this, if, full of care, we have no time to stand and stare." The fundamental is as necessary as the supreme. Little use in a fine torso, if the feet are of clay.

But a recognition of the pre-conditions of social progress has another aspect. It is all very well to say to your horse, "Come on, then, like a good fellow,"—that is the psychological stimulus; but it is not very well if we forget to give him his oats in the morning,—that is the biological pre-condition. On the other hand, if we treat our horse simply as a thermodynamic engine, we will not get either the most or the best out of him; if we treat him simply as a mammal, we shall also fail, though not so egregiously; we must treat him as a brother mind-body—"Brer Horse." We should beware, then, of thinking



that eugenics (good breeding) will necessarily engender a good heart; we should not be too sure that eupsychics (good education) may not be the shortest way to eutopia (good environment). Progress is manifold, but the organism is one.

### *A Contribution to the Critique of Progress*

We are here in sight of a principle, a contribution to the critique of progress. Civilisation has been handicapped in the past by insufficient use of Science as a torch to well-being. This handicap continues, but is lessening. The more we use Science for life the better, but there is the risk of being guided too much by one science.

Our kindly social sentiment and sense of solidarity is a sign of progress; every right-minded person hopes for more. And yet, we help the sickly, the diseased, the thriftless, the feckless, and we must go on helping them, for we have thrown off forever the old rat-against-rat theory. We have thrown off the yoke of Natural Selection. And yet, if we persist in sheltering inferiority from the penalties of inferiority, if we persist in not allowing superiority to reap anything like the full rewards of superiority, we are assuredly making for trouble. So some brave men would return to Lycurgan methods, to Plato's purgation of the State. But we cannot do this wisely, we have not knowledge enough; and we would not if we could. We must think out subtler ways, conservative of such higher values as good-will, and yet safeguarding us from being kind to the present and cruel to the future. If we generalise this we get a glimpse of a critique of progress,—we must judge any social change by the criteria of successively higher ideals. Is it sound physically, biologically, psychologically, socially?

The principal of guidance is this—judge the physical in the light of the biological, and the biological in the light of the psychological, and the psychological in the light of the social. More simply, our proposals for progress must in the long run be submitted to the august tribunal of the true, the beautiful, and the good.

But there is another way of looking at our question,—a new light on the old maxim: Follow Nature. What does Animate Nature make for? What is sanctioned with prolonged survival without degeneracy? We must answer on the whole, the healthy and the knowing

in the widest sense, the beautiful, and those that care for others as well as themselves, such as Birds and Mammals.

What if lucidity, beauty, health are all congruous—implying unified and harmonious life such as Nature sanctions? Thus concrete and abstract harmonise. Thus Man's progress, which Huxley said must be against the cosmic process, is really in a line with it.

We have seen that the application of sound biology might do much to raise the standard of individual healthfulness and that it can help towards 'the improvement of the human breed,' to use Sir Francis Galton's phrase which points to racial evolution as well as to individual development. Increased healthfulness of the human organism as a whole, body-mind and mind-body, is one of the pre-conditions of progress.

We have also seen that the application of sound biology can do much to remove shackles which inhibit the higher adventures of the human spirit. It may seem to some like a bathos to refer to the handicapping of human life by hookworm disease; if they knew more about it they would count the conquest of that disease (and many another) as a climax. The facts warrant the belief that many of the shadows and disharmonies of human life can be got rid of when goodwill joins hands with Science. But there is more. Our studies indicate for mankind a mundane future which is irradiated with hope. This hope is grounded on the fact that evolution in the past has been on the whole progressive, towards integration, towards increasing fullness, freedom, and fitness of life. There has been "a constant if chequered advance." Will it stop?

We see in evolution the possibility of turning even mistakes and failures to some advantage; we have the same hope for ourselves and for our race.



## PART II. SOCIAL METHOD

### CHAPTER VI

#### CRITICISM OF CONTEMPORARY METHOD

##### 20. WHAT SOCIAL CLASSES OWE TO EACH OTHER<sup>1</sup>

##### *On the Case of a Certain Man who is Never Thought Of*

The type and formula of most schemes of philanthropy or humanitarianism is this: A and B put their heads together to decide what C shall be made to do for D. The radical vice of all these schemes, from a sociological point of view, is that C is not allowed a voice in the matter, and his position, character, and interests, as well as the ultimate effects on society through C's interests, are entirely overlooked. I call C the Forgotten Man. For once let us look him up and consider his case, for the characteristic of all social doctors is, that they fix their minds on some man or group of men whose case appeals to the sympathies and the imagination, and they plan remedies addressed to the particular trouble; they do not understand that all the parts of society hold together, and that forces which are set in action act and react throughout the whole organism, until an equilibrium is produced by a re-adjustment of all interests and rights. They therefore ignore entirely the source from which they must draw all the energy which they employ in their remedies, and they ignore all the effects on other members of society than the ones they have in view. They are always under the dominion of the superstition of government, and, forgetting that a government produces nothing at all, they leave out of sight the first fact to be remembered in all social discussion—that the State cannot get a cent for any man without taking it from some other man, and this latter must be a man who has produced and saved it. This latter is the Forgotten Man.

<sup>1</sup>By William Graham Sumner, formerly Professor of Social Science in Yale University. Adapted from *What Social Classes Owe to Each Other*, pp. 123-126, 131-139, 153-169. Copyright by Harper & Brothers, 1883, 1920.



The friends of humanity start out with certain benevolent feelings toward "the poor," "the weak," "the laborers," and others of whom they make pets. They generalize these classes, and render them impersonal, and so constitute the classes into social pets. They turn to other classes and appeal to sympathy and generosity, and to all the other noble sentiments of the human heart. Action in the line proposed consists in a transfer of capital from the better off to the worse off. Capital, however, as we have seen, is the force by which civilization is maintained and carried on. The same piece of capital cannot be used in two ways. Every bit of capital, therefore, which is given to a shiftless and inefficient member of society, who makes no return for it, is diverted from a reproductive use; but if it was put to reproductive use, it would have to be granted in wages to an efficient and productive laborer. Hence the real sufferer by that kind of benevolence which consists in an expenditure of capital to protect the good-for-nothing is the industrious laborer. The latter, however, is never thought of in this connection. It is assumed that he is provided for and out of the account. Such a notion only shows how little true notions of political economy have as yet become popularized. There is an almost invincible prejudice that a man who gives a dollar to a beggar is generous and kind-hearted, but that a man who refuses the beggar and puts the dollar in a savings-bank is stingy and mean. The former is putting capital where it is very sure to be wasted, and where it will be a kind of seed for a long succession of future dollars, which must be wasted to ward off a greater strain on the sympathies than would have been occasioned by a refusal in the first place. Inasmuch as the dollar might have been turned into capital and given to a laborer who, while earning it, would have reproduced it, it must be regarded as taken from the latter. When a millionaire gives a dollar to a beggar the gain of utility to the beggar is enormous, and the loss of utility to the millionaire is insignificant. Generally the discussion is allowed to rest there. But if the millionaire makes capital of the dollar, it must go upon the labor market, as a demand for productive services. Hence there is another party in interest—the person who supplies productive services. There always are two parties. The second one is always the Forgotten Man, and any one who wants to truly understand the matter in question must go and search for the Forgotten Man. He will be found to be worthy, industrious, independ-

ent, and self-supporting. He is not, technically, "poor" or "weak"; he minds his own business, and makes no complaint. Consequently the philanthropists never think of him, and trample on him.

Now, we never can annihilate a penalty. We can only divert it from the head of the man who has incurred it to the heads of others who have not incurred it. A vast amount of "social reform" consists in just this operation. The consequence is that those who have gone astray, being relieved from Nature's fierce discipline, go on to worse, and that there is a constantly heavier burden for the others to bear. Who are the others? When we see a drunkard in the gutter we pity him. If a policeman picks him up, we say that society has interfered to save him from perishing. "Society" is a fine word, and it saves us the trouble of thinking. The industrious and sober workman, who is mulcted of a percentage of his day's wages to pay the policeman, is the one who bears the penalty. But he is the Forgotten Man. He passes by and is never noticed, because he has behaved himself, fulfilled his contracts, and asked for nothing.

The fallacy of all prohibitory, sumptuary, and moral legislation is the same. A and B determine to be teetotalers, which is often a wise determination, and sometimes a necessary one. If A and B are moved by considerations which seem to them good, that is enough. But A and B put their heads together to get a law passed which shall force C to be a teetotaler for the sake of D, who is in danger of drinking too much. There is no pressure on A and B. They are having their own way, and they like it. There is rarely any pressure on D. He does not like it, and evades it. The pressure all comes on C. The question then arises, Who is C? He is the man who wants alcoholic liquors for any honest purpose whatsoever, who would use his liberty without abusing it, who would occasion no public question, and trouble nobody at all. He is the Forgotten Man again, and as soon as he is drawn from his obscurity we see that he is just what each one of us ought to be.

There is a beautiful notion afloat in our literature and in the minds of our people that men are born to certain "natural rights." If that were true, there would be something on earth which was got for nothing, and this world would not be the place it is at all. The fact is, that there is no right whatever inherited by man which has not an equivalent and corresponding duty by the side of it, as the price of it.

The rights, advantages, capital, knowledge, and all other goods which we inherit from past generations have been won by the struggles and sufferings of past generations; and the fact that the race lives, though men die, and that the race can by heredity accumulate within some cycle its victories over Nature, is one of the facts which make civilization possible. The struggles of the race as a whole produce the possessions of the race as a whole. Something for nothing is not to be found on earth.

If there were such things as natural rights, the question would arise, Against whom are they good? Who has the corresponding obligation to satisfy these rights? There can be no rights against Nature, except to get out of her whatever we can, which is only the fact of the struggle for existence stated over again. The common assertion is, that the rights are good against society; that is, that society is bound to obtain and secure them for the persons interested. Society, however, is only the persons interested plus some other persons; and as the persons interested have by the hypothesis failed to win the rights, we come to this, that natural rights are the claims which certain persons have by prerogative against some other persons. Such is the actual interpretation in practice of natural rights—claims which some people have by prerogative on other people.

This theory is a very far-reaching one, and of course it is adequate to furnish a foundation for a whole social philosophy. In its widest extension it comes to mean that if any man finds himself uncomfortable in this world, it must be somebody else's fault, and that somebody is bound to come and make him comfortable. Now, the people who are most uncomfortable in this world (for if we should tell all our troubles it would not be found to be a very comfortable world for anybody) are those who have neglected their duties, and consequently have failed to get their rights. The people who can be called upon to serve the uncomfortable must be those who have done their duty, as the world goes, tolerably well. Consequently the doctrine which we are discussing turns out to be in practice only a scheme for making justice prevail in human society by reversing the distribution of rewards and punishments between those who have done their duty and those who have not.

We are constantly preached at by our public teachers, as if respectable people were to blame because some people are not respect-

able—as if the man who has done his duty in his own sphere was responsible in some way for another man who has not done his duty in his sphere. There are relations of employer and employé which need to be regulated by compromise and treaty. There are sanitary precautions which need to be taken in factories and houses. There are precautions against fire which are necessary. There is care needed that children be not employed too young, and that they have an education. There is care needed that banks, insurance companies, and railroads be well managed, and that officers do not abuse their trusts. There is a duty in each case on the interested parties to defend their own interest. The penalty of neglect is suffering. The system of providing for these things by boards and inspectors throws the cost of it, not on the interested parties, but on the tax-payers. Some of them, no doubt, are the interested parties, and they may consider that they are exercising the proper care by paying taxes to support an inspector. If so, they only get their fair deserts when the railroad inspector finds out that a bridge is not safe after it is broken down, or when the bank examiner comes in to find out why a bank failed after the cashier has stolen all the funds. The real victim is the Forgotten Man again—the man who has watched his own investments, made his own machinery safe, attended to his own plumbing, and educated his own children, and who, just when he wants to enjoy the fruits of his care, is told that it is his duty to go and take care of some of his negligent neighbors, or, if he does not go, to pay an inspector to go. No doubt it is often his interest to go or to send, rather than to have the matter neglected, on account of his own connection with the thing neglected, and his own secondary peril; but the point now is, that if preaching and philosophizing can do any good in the premises, it is all wrong to preach to the Forgotten Man that it is his duty to go and remedy other people's neglect. It is not his duty. It is a harsh and unjust burden which is laid upon him, and it is only the more unjust because no one thinks of him when laying the burden so that it falls on him. The exhortations ought to be expended on the negligent—that they take care of themselves.

It is an especially vicious extension of the false doctrine above mentioned that criminals have some sort of a right against or claim on society. Many reformatory plans are based on a doctrine of this kind when they are urged upon the public conscience. A criminal is a



man who, instead of working with and for the society, has turned against it, and become destructive and injurious. His punishment means that society rules him out of its membership, and separates him from its association, by execution or imprisonment, according to the gravity of his offence. He has no claims against society at all. What shall be done with him is a question of expediency to be settled in view of the interests of society—that is, of the non-criminals. The French writers of the school of '48 used to represent the badness of the bad men as the fault of "society." As the object of this statement was to show that the badness of the bad men was not the fault of the bad men, and as society contains only good men and bad men, it followed that the badness of the bad men was the fault of the good men. On that theory, of course the good men owed a great deal to the bad men who were in prison and at the galleys on their account. If we do not admit that theory, it behooves us to remember that any claim which we allow to the criminal against the "State" is only so much burden laid upon those who have never cost the State anything for discipline or correction. The punishments of society are just like those of God and Nature—they are warnings to the wrong-doer to reform himself.

### *Wherefore we should love One Another*

Suppose that a man, going through a wood, should be struck by a falling tree and pinned down beneath it. Suppose that another man, coming that way and finding him there, should, instead of hastening to give or to bring aid, begin to lecture on the law of gravitation, taking the tree as an illustration.

Suppose, again, that a person lecturing on the law of gravitation should state the law of falling bodies, and suppose that an objector should say: You state your law as a cold, mathematical fact, and you declare that all bodies will fall conformably to it. How heartless! You do not reflect that it may be a beautiful little child falling from a window.

These two suppositions may be of some use to us as illustrations.

Let us take the second first. It is the objection of the sentimentalist; and, ridiculous as the mode of discussion appears when applied to the laws of natural philosophy, the sociologist is constantly met by objections of just that character. Especially when the subject under

discussion is charity in any of its public forms, the attempt to bring method and clearness into the discussion is sure to be crossed by suggestions which are as far from the point and as foreign to any really intelligent point of view as the supposed speech in the illustration. In the first place, a child would fall just as a stone would fall. Nature's forces know no pity. Just so in sociology. The forces know no pity. In the second place, if a natural philosopher should discuss all the bodies which may fall, he would go entirely astray, and would certainly do no good. The same is true of the sociologist. He must concentrate, not scatter, and study laws, not all conceivable combinations of force which may occur in practice. In the third place, nobody ever saw a body fall as the philosophers say it will fall, because they can accomplish nothing unless they study forces separately, and allow for their combined action in all concrete and actual phenomena. The same is true in sociology, with the additional fact that the forces and their combinations in sociology are far the most complex which we have to deal with. In the fourth place, any natural philosopher who should stop, after stating the law of falling bodies, to warn mothers not to let their children fall out of the window, would make himself ridiculous. Just so a sociologist who should attach moral applications and practical maxims to his investigations would entirely miss his proper business. There is the force of gravity as a fact in the world. If we understand this, the necessity of care to conform to the action of gravity meets us at every step in our private life and personal experience. The fact in sociology is in no wise different.

If, for instance, we take political economy, that science does not teach an individual how to get rich. It is a social science. It treats of the laws of the material welfare of human societies. It is, therefore, only one science among all the sciences which inform us about the laws and conditions of our life on earth. Education has for its object to give a man knowledge of the conditions and laws of living, so that, in any case in which the individual stands face to face with the necessity of deciding what to do, if he is an educated man, he may know how to make a wise and intelligent decision. If he knows chemistry, physics, geology, and other sciences, he will know what he must encounter of obstacle or help in Nature in what he proposes to do. If he knows physiology and hygiene, he will know what effects on health he must expect in one course or another. If he knows

political economy, he will know what effect on wealth and on the welfare of society one course or another will produce. There is no injunction, no "ought" in political economy at all. It does not assume to tell man what he ought to do, any more than chemistry tells us that we ought to mix things, or mathematics that we ought to solve equations. It only gives one element necessary to an intelligent decision, and in every practical and concrete case the responsibility of deciding what to do rests on the man who has to act. The economist, therefore, does not say to any one, You ought never to give money to charity. He contradicts anybody who says, You ought to give money to charity; and, in opposition to any such person, he says, Let me show you what difference it makes to you, to others, to society, whether you give money to charity or not, so that you can make a wise and intelligent decision. Certainly there is no harder thing to do than to employ capital charitably. It would be extreme folly to say that nothing of that sort ought to be done, but I fully believe that to-day the next most pernicious thing to vice is charity in its broad and popular sense.

In the preceding chapters I have discussed the public and social relations of classes, and those social topics in which groups of persons are considered as groups or classes, without regard to personal merits or demerits. I have relegated all charitable work to the domain of private relations, where personal acquaintance and personal estimates may furnish the proper limitations and guarantees. A man who had no sympathies and no sentiments would be a very poor creature; but the public charities, more especially the legislative charities, nourish no man's sympathies and sentiments. Furthermore, it ought to be distinctly perceived that any charitable and benevolent effort which any man desires to make voluntarily, to see if he can do any good, lies entirely beyond the field of discussion. It would be as impertinent to prevent his effort as it is to force coöperation in an effort on some one who does not want to participate in it. What I choose to do by way of exercising my own sympathies under my own reason and conscience is one thing; what another man forces me to do of a sympathetic character, because his reason and conscience approve of it, is quite another thing.

What, now, is the reason why we should help each other? This carries us back to the other illustration with which we started. We

may philosophize as coolly and correctly as we choose about our duties and about the laws of right living; no one of us lives up to what he knows. The man struck by the falling tree has, perhaps, been careless. We are all careless. Environed as we are by risks and perils, which befall us as misfortunes, no man of us is in a position to say, "I know all the laws, and am sure to obey them all; therefore I shall never need aid and sympathy." At the very best, one of us fails in one way and another in another, if we do not fail altogether. Therefore the man under the tree is the one of us who for the moment is smitten. It may be you to-morrow, and I next day. It is the common frailty in the midst of a common peril which gives us a kind of solidarity of interest to rescue the one for whom the chances of life have turned out badly just now. Probably the victim is to blame. He almost always is so. A lecture to that effect in the crisis of his peril would be out of place, because it would not fit the need of the moment; but it would be very much in place at another time, when the need was to avert the repetition of such an accident to somebody else. Men, therefore, owe to men, in the chances and perils of this life, aid and sympathy, on account of the common participation in human frailty and folly. This observation, however, puts aid and sympathy in the field of private and personal relations, under the regulation of reason and conscience, and gives no ground for mechanical and impersonal schemes.

We may, then, distinguish four things:

1. The function of science is to investigate truth. Science is colorless and impersonal. It investigates the force of gravity, and finds out the laws of that force, and has nothing to do with the weal or woe of men under the operation of the law.

2. The moral deductions as to what one ought to do are to be drawn by the reason and conscience of the individual man who is instructed by science. Let him take note of the force of gravity, and see to it that he does not walk off a precipice or get in the way of a falling body.

3. On account of the number and variety of perils of all kinds by which our lives are environed, and on account of ignorance, carelessness, and folly, we all neglect to obey the moral deductions which we have learned, so that, in fact, the wisest and the best of us act foolishly and suffer.



4. The law of sympathy, by which we share each others' burdens, is to do as we would be done by. It is not a scientific principle, and does not admit of such generalization or interpretation that A can tell B what this law enjoins on B to do. Hence the relations of sympathy and sentiment are essentially limited to two persons only, and they cannot be made a basis for the relations of groups of persons, or for discussion by any third party.

Social improvement is not to be won by direct effort. It is secondary, and results from physical or economic improvements. That is the reason why schemes of direct social amelioration always have an arbitrary, sentimental, and artificial character, while true social advance must be a product and a growth. The efforts which are being put forth for every kind of progress in the arts and sciences are, therefore, contributing to true social progress. Let any one learn what hardship was involved, even for a wealthy person, a century ago, in crossing the Atlantic, and then let him compare that hardship even with a steerage passage at the present time, considering time and money cost. This improvement in transportation by which "the poor and weak" can be carried from the crowded centres of population to the new land is worth more to them than all the schemes of all the social reformers. An improvement in surgical instruments or in anæsthetics really does more for those who are not well off than all the declamations of the orators and pious wishes of the reformers. Civil service reform would be a greater gain to the laborers than innumerable factory acts and eight-hour laws. Free trade would be a greater blessing to "the poor man" than all the devices of all the friends of humanity if they could be realized. If the economists could satisfactorily solve the problem of the regulation of paper currency, they would do more for the wages class than could be accomplished by all the artificial doctrines about wages which they seem to feel bound to encourage. If we could get firm and good laws passed for the management of savings-banks, and then refrain from the amendments by which those laws are gradually broken down, we should do more for the non-capitalist class than by volumes of laws against "corporations" and the "excessive power of capital."

We each owe to the other mutual redress of grievances. . . . Every honest citizen of a free state owes it to himself, to the community, and especially to those who are at once weak and wronged, to go to

their assistance and to help redress their wrongs. Whenever a law or social arrangement acts so as to injure any one, and that one the humblest, then there is a duty on those who are stronger, or who know better, to demand and fight for redress and correction. When generalized this means that it is the duty of All-of-us (that is, the State) to establish justice for all, from the least to the greatest, and in all matters. This, however, is no new doctrine. It is only the old, true, and indisputable function of the State; and in working for a redress of wrongs and a correction of legislative abuses, we are only struggling to a fuller realization of it—that is, working to improve civil government.

We each owe it to the other to guarantee rights. Rights do not pertain to results, but only to chances. They pertain to the conditions of the struggle for existence, not to any of the results of it; to the pursuit of happiness, not to the possession of happiness. It cannot be said that each one has a right to have some property, because if one man had such a right some other man or men would be under a corresponding obligation to provide him with some property. Each has a right to acquire and possess property if he can. It is plain what fallacies are developed when we overlook this distinction. Those fallacies run through all socialistic schemes and theories. If we take rights to pertain to results, and then say that rights must be equal, we come to say that men have a right to be equally happy, and so on in all the details. Rights should be equal, because they pertain to chances, and all ought to have equal chances so far as chances are provided or limited by the action of society. This, however, will not produce equal results, but it is right just because it will produce unequal results—that is, results which shall be proportioned to the merits of individuals. We each owe it to the other to guarantee mutually the chance to earn, to possess, to learn, to marry, etc., etc., against any interference which would prevent the exercise of those rights by a person who wishes to prosecute and enjoy them in peace for the pursuit of happiness. If we generalize this, it means that All-of-us ought to guarantee rights to each of us. But our modern free, constitutional States are constructed entirely on the notion of rights, and we regard them as performing their functions more and more perfectly according as they guarantee rights in consonance with the constantly corrected and expanded notions of rights from one

generation to another. Therefore, when we say that we owe it to each other to guarantee rights we only say that we ought to prosecute and improve our political science.

If we have in mind the value of chances to earn, learn, possess, etc., for a man of independent energy, we can go on one step farther in our deductions about help. The only help which is generally expedient, even within the limits of the private and personal relations of two persons to each other, is that which consists in helping a man to help himself. This always consists in opening the chances. A man of assured position can, by an effort which is of no appreciable importance to him, give aid which is of incalculable value to a man who is all ready to make his own career if he can only get a chance. The truest and deepest pathos in this world is not that of suffering but that of brave struggling. The truest sympathy is not compassion, but a fellow-feeling with courage and fortitude in the midst of noble effort.

Now, the aid which helps a man to help himself is not in the least akin to the aid which is given in charity. If alms are given, or if we "make work" for a man, or "give him employment," or "protect" him, we simply take a product from one and give it to another. If we help a man to help himself, by opening the chances around him, we put him in a position to add to the wealth of the community by putting new powers in operation to produce. It would seem that the difference between getting something already in existence from the one who has it, and producing a new thing by applying new labor to natural materials, would be so plain as never to be forgotten; but the fallacy of confusing the two is one of the commonest in all social discussions.

We have now seen that the current discussions about the claims and rights of social classes on each other are radically erroneous and fallacious, and we have seen that an analysis of the general obligations which we all have to each other leads us to nothing but an emphatic repetition of old but well-acknowledged obligations to perfect our political institutions. We have been led to restriction, not extension, of the functions of the State, but we have also been led to see the necessity of purifying and perfecting the operation of the State in the functions which properly belong to it. If we refuse to recognize any classes as existing in society when, perhaps, a claim might be set up

that the wealthy, educated, and virtuous have acquired special rights and precedence, we certainly cannot recognize any classes when it is attempted to establish such distinctions for the sake of imposing burdens and duties on one group for the benefit of others. The men who have not done their duty in this world never can be equal to those who have done their duty more or less well. If words like wise and foolish, thrifty and extravagant, prudent and negligent, have any meaning in language, then it must make some difference how people behave in this world, and the difference will appear in the position they acquire in the body of society, and in relation to the chances of life. They may, then, be classified in reference to these facts. Such classes always will exist; no other social distinctions can endure. If, then, we look to the origin and definition of these classes, we shall find it impossible to deduce any obligations which one of them bears to the other. The class distinctions simply result from the different degrees of success with which men have availed themselves of the chances which were presented to them. Instead of endeavoring to redistribute the acquisitions which have been made between the existing classes, our aim should be to increase, multiply, and extend the chances. Such is the work of civilization. Every old error or abuse which is removed opens new chances of development to all the new energy of society. Every improvement in education, science, art, or government expands the chances of man on earth. Such expansion is no guarantee of equality. On the contrary, if there be liberty, some will profit by the chances eagerly and some will neglect them altogether. Therefore, the greater the chances the more unequal will be the fortune of these two sets of men. So it ought to be, in all justice and right reason. The yearning after equality is the offspring of envy and covetousness, and there is no possible plan for satisfying that yearning which can do aught else than rob A to give to B; consequently all such plans nourish some of the meanest vices of human nature, waste capital, and overthrow civilization. But if we can expand the chances we can count on a general and steady growth of civilization and advancement of society by and through its best members. In the prosecution of these chances we all owe to each other good-will, mutual respect, and mutual guarantees of liberty and security. Beyond this nothing can be affirmed as a duty of one group to another in a free state.



21. DISAPPOINTED METHODS OF REFORM<sup>1</sup>

If some magical transformation could be produced in men's ways of looking at themselves and their fellows, no inconsiderable part of the evils which now afflict society would vanish away or remedy themselves automatically. If the majority of influential persons held the opinions and occupied the point of view that a few rather uninfluential people now do, there would, for instance, be no likelihood of another great war; the whole problem of "labor and capital" would be transformed and attenuated; national arrogance, race animosity, political corruption, and inefficiency would all be reduced below the danger point. As an old Stoic proverb has it, men are tormented by the opinions they have of things, rather than by the things themselves. This is eminently true of many of our worst problems to-day. We have available knowledge and ingenuity and material resources to make a far fairer world than that in which we find ourselves, but various obstacles prevent our intelligently availing ourselves of them. The object of this book is to substantiate this proposition, to exhibit with entire frankness the tremendous difficulties that stand in the way of such a beneficent change of mind, and to point out as clearly as may be some of the measures to be taken in order to overcome them.

When we contemplate the shocking derangement of human affairs which now prevails in most civilized countries, including our own, even the best minds are puzzled and uncertain in their attempts to grasp the situation. The world seems to demand a moral and economic regeneration which it is dangerous to postpone, but as yet impossible to imagine, let alone direct. The preliminary intellectual regeneration which would put our leaders in a position to determine and control the course of affairs has not taken place. We have unprecedented conditions to deal with and novel adjustments to make—there can be no doubt of that. We also have a great stock of scientific knowledge unknown to our grandfathers with which to operate. So novel are the conditions, so copious the knowledge, that we must undertake the arduous task of reconsidering a great part of the opinions about man and his relations to his fellow-men which have been

<sup>1</sup>From *The Mind in the Making* (pp. 3-9, 12-23), by James Harvey Robinson, Ph.D., Lecturer in the New School for Social Research, formerly Professor of History in Columbia University. Copyright, 1921, by Harper & Brothers. Printed in the United States of America.

handed down to us by previous generations who lived in far other conditions and possessed far less information about the world and themselves. We have, however, first to create an unprecedented attitude of mind to cope with unprecedented conditions, and to utilize unprecedented knowledge. This is the preliminary, and most difficult, step to be taken—far more difficult than one would suspect who fails to realize that in order to take it we must overcome inveterate natural tendencies and artificial habits of long standing. How are we to put ourselves in a position to come to think of things that we not only never thought of before, but are most reluctant to question? In short, how are we to rid ourselves of our fond prejudices and open our minds?

As a historical student who for a good many years has been especially engaged in inquiring how man happens to have the ideas and convictions about himself and human relations which now prevail, the writer has reached the conclusion that history can at least shed a great deal of light on our present predicaments and confusion. I do not mean by history that conventional chronicle of remote and irrelevant events which embittered the youthful years of many of us, but rather a study of how man has come to be as he is and to believe as he does.

No historian has so far been able to make the whole story very plain or popular, but a number of considerations are obvious enough, and it ought not to be impossible some day to popularize them. I venture to think that if certain seemingly indisputable historical facts were generally known and accepted and permitted to play a daily part in our thought, the world would forthwith become a very different place from what it now is. We could then neither delude ourselves in the simple-minded way we now do, nor could we take advantage of the primitive ignorance of others. All our discussions of social, industrial, and political reform would be raised to a higher plane of insight and fruitfulness.

In one of those brilliant divagations with which Mr. H. G. Wells is wont to enrich his novels he says:

When the intellectual history of this time comes to be written, nothing, I think, will stand out more strikingly than the empty gulf in quality between the superb and richly fruitful scientific investigations that are going on, and the general thought of other educated sections of the community.

I do not mean that scientific men are, as a whole, a class of supermen, dealing with and thinking about everything in a way altogether better than the common run of humanity, but in their field they think and work with an intensity, an integrity, a breadth, boldness, patience, thoroughness, and faithfulness—excepting only a few artists—which puts their work out of all comparison with any other human activity. . . . In these particular directions the human mind has achieved a new and higher quality of attitude and gesture, a veracity, a self-detachment, and self-abnegating vigor of criticism that tend to spread out and must ultimately spread out to every other human affair.

No one who is even most superficially acquainted with the achievements of students of nature during the past few centuries can fail to see that their thought has been astoundingly effective in constantly adding to our knowledge of the universe, from the hugest nebula to the tiniest atom; moreover, this knowledge has been so applied as to well-nigh revolutionize human affairs, and both the knowledge and its applications appear to be no more than hopeful beginnings, with indefinite revelations ahead, if only the same kind of thought be continued in the same patient and scrupulous manner.

But the knowledge of man, of the springs of his conduct, of his relation to his fellow-men singly or in groups, and the felicitous regulation of human intercourse in the interest of harmony and fairness, have made no such advance. Aristotle's treatises on astronomy and physics, and his notions of "generation and decay" and of chemical processes, have long gone by the board, but his politics and ethics are still revered. Does this mean that his penetration in the sciences of man exceeded so greatly his grasp of natural science, or does it mean that the progress of mankind in the scientific knowledge and regulation of human affairs has remained almost stationary for over two thousand years? I think that we may safely conclude that the latter is the case. It has required three centuries of scientific thought and of subtle inventions for its promotion to enable a modern chemist or physicist to center his attention on electrons and their relation to the mysterious nucleus of the atom, or to permit an embryologist to study the early stirrings of the fertilized egg. As yet relatively little of the same kind of thought has been brought to bear on human affairs.

When we compare the discussions in the United States Senate in regard to the League of Nations with the consideration of a broken-

down car in a roadside garage the contrast is shocking. The rural mechanic thinks scientifically; his only aim is to avail himself of his knowledge of the nature and workings of the car, with a view to making it run once more. The Senator, on the other hand, appears too often to have little idea of the nature and workings of nations, and he relies on rhetoric and appeals to vague fears and hopes or mere partisan animosity. The scientists have been busy for a century in revolutionizing the practical relation of nations. The ocean is no longer a barrier, as it was in Washington's day, but to all intents and purposes a smooth avenue closely connecting, rather than safely separating, the eastern and western continents. The Senator will nevertheless unblushingly appeal to policies of a century back, suitable, mayhap, in their day, but now become a warning rather than a guide. The garage man, on the contrary, takes his mechanism as he finds it, and does not allow any mystic respect for the earlier forms of the gas engine to interfere with the needed adjustments. . . .

I do not for a moment suggest that we can use precisely the same kind of thinking in dealing with the quandaries of mankind that we use in problems of chemical reaction and mechanical adjustment. Exact scientific results, such as might be formulated in mechanics, are, of course, out of the question. It would be unscientific to expect to apply them. I am not advocating any particular method of treating human affairs, but rather such a general frame of mind, such a critical open-minded attitude, as has hitherto been but sparsely developed among those who aspire to be men's guides, whether religious, political, economic, or academic. Most human progress has been, as Wells expresses it, a mere "muddling through." It has been man's wont to explain and sanctify his ways, with little regard to their fundamental and permanent expediency. An arresting example of what this muddling may mean we have seen during these recent years in the slaying or maiming of fifteen million of our young men, resulting in incalculable loss, continued disorder, and bewilderment. Yet men seem blindly driven to defend and perpetuate the conditions which produced the last disaster.

Unless we wish to see a recurrence of this or some similar calamity, we must, as I have already suggested, create a new and unprecedented attitude of mind to meet the new and unprecedented conditions which confront us. We should proceed to the thorough reconstruction of



our mind, with a view to understanding actual human conduct and organization. We must examine the facts freshly, critically, and dispassionately, and then allow our philosophy to formulate itself as a result of this examination, instead of permitting our observations to be distorted by archaic philosophy, political economy, and ethics. As it is, we are taught our philosophy first, and in its light we try to justify the facts. We must reverse this process, as did those who began the great work in experimental science; we must first face the facts, and patiently await the emergence of a new philosophy.

A willingness to examine the very foundations of society does not mean a desire to encourage or engage in any hasty readjustment, but certainly no wise or needed readjustment can be made unless such an examination is undertaken.

I come back, then, to my original point that in this examination of existing facts history, by revealing the origin of many of our current fundamental beliefs, will tend to free our minds so as to permit honest thinking. Also, that the historical facts which I propose to recall would, if permitted to play a constant part in our thinking, automatically eliminate a very considerable portion of the gross stupidity and blindness which characterize our present thought and conduct in public affairs, and would contribute greatly to developing the needed scientific attitude toward human concerns—in other words, to bringing the mind up to date.

Plans for social betterment and the cure of public ills have in the past taken three general forms: (1) changes in the rules of the game, (2) spiritual exhortation, and (3) education. Had all these not largely failed, the world would not be in the plight in which it now confessedly is.

1. Many reformers concede that they are suspicious of what they call "ideas." They are confident that our troubles result from defective organization, which should be remedied by more expedient legislation and wise ordinances. Abuses should be abolished or checked by forbidding them, or by some ingenious reordering of procedure. Responsibility should be concentrated or dispersed. The term of office of government officials should be lengthened or shortened; the number of members in governing bodies should be increased or decreased; there should be direct primaries, referendum, recall, government by commission; powers should be shifted here and there with

a hope of meeting obvious mischances all too familiar in the past. In industry and education administrative reform is constantly going on, with the hope of reducing friction and increasing efficiency. The House of Commons not long ago came to new terms with the peers. The League of Nations has already had to adjust the functions and influence of the Council and the Assembly, respectively.

No one will question that organization is absolutely essential in human affairs, but reorganization, while it sometimes produces assignable benefit, often fails to meet existing evils, and not uncommonly engenders new and unexpected ones. Our confidence in restriction and regimentation is exaggerated. What we usually need is a change of attitude, and without this our new regulations often leave the old situation unaltered. So long as we allow our government to be run by politicians and business lobbies it makes little difference how many aldermen or assemblymen we have or how long the mayor or governor holds office. In a university the fundamental drift of affairs cannot be greatly modified by creating a new dean, or a university council, or by enhancing or decreasing the nominal authority of the president or faculty. We now turn to the second sanctified method of reform, moral uplift.

2. Those who are impatient with mere administrative reform, or who lack faith in it, declare that what we need is brotherly love. Thousands of pulpits admonish us to remember that we are all children of one Heavenly Father and that we should bear one another's burdens with fraternal patience. Capital is too selfish; Labor is bent on its own narrow interests regardless of the risks Capital takes. We are all dependent on one another, and a recognition of this should beget mutual forbearance and glad co-operation. Let us forget ourselves in others. "Little children, love one another."

The fatherhood of God has been preached by Christians for over eighteen centuries, and the brotherhood of man by the Stoics long before them. The doctrine has proved compatible with slavery and serfdom, with wars blessed, and not infrequently instigated, by religious leaders, and with industrial oppression which it requires a brave clergyman or teacher to denounce to-day. True, we sometimes have moments of sympathy when our fellow-creatures become objects of tender solicitude. Some rare souls may honestly flatter themselves that they love mankind in general, but it would surely be a very rare

soul indeed who dared profess that he loved his personal enemies—much less the enemies of his country or institutions. We still worship a tribal god, and the "foe" is not to be reckoned among his children. Suspicion and hate are much more congenial to our natures than love, for very obvious reasons in this world of rivalry and common failure. There is, beyond doubt, a natural kindliness in mankind which will show itself under favorable auspices. But experience would seem to teach that it is little promoted by moral exhortation. This is the only point that need be urged here. Whether there is another way of forwarding the brotherhood of man will be considered in the sequel.

3. One disappointed in the effects of mere reorganization, and distrusting the power of moral exhortation, will urge that what we need above all is education. It is quite true that what we need is education, but something so different from what now passes as such that it needs a new name.

Education has more various aims than we usually recognize, and should of course be judged in relation to the importance of its several intentions, and of its success in gaining them. The arts of reading and writing and figuring all would concede are basal in a world of newspapers and business. Then there is technical information and the training that prepares one to earn a livelihood in some more or less standardized guild or profession. Both these aims are reached fairly well by our present educational system, subject to various economies and improvements in detail. Then there are the studies which it is assumed contribute to general culture and to "training the mind," with the hope of cultivating our tastes, stimulating the imagination, and mayhap improving our reasoning powers.

This branch of education is regarded by the few as very precious and indispensable; by the many as at best an amenity which has little relation to the real purposes and success of life. It is highly traditional and retrospective in the main, concerned with ancient tongues, old and revered books, higher mathematics, somewhat archaic philosophy and history, and the fruitless form of logic which has until recently been prized as man's best guide in the fastnesses of error. To these has been added in recent decades a choice of the various branches of natural science.

The results, however, of our present scheme of liberal education are disappointing. One who, like myself, firmly agrees with its ob-

jects and is personally so addicted to old books, so pleased with such knowledge as he has of the ancient and modern languages, so envious of those who can think mathematically, and so interested in natural science—such a person must resent the fact that those who have had a liberal education rarely care for old books, rarely read for pleasure any foreign language, think mathematically, love philosophy or history, or care for the beasts, birds, plants, and rocks with any intelligent insight, or even real curiosity. This arouses the suspicion that our so-called "liberal education" miscarries and does not attain its ostensible aims.

The three educational aims enumerated above have one thing in common. They are all directed toward an enhancement of the chances of personal worldly success, or to the increase of our personal culture and intellectual and literary enjoyment. Their purpose is not primarily to fit us to play a part in social or political betterment. But of late a fourth element has been added to the older ambitions, namely the hope of preparing boys and girls to become intelligent voters. This need has been forced upon us by the coming of political democracy, which makes one person's vote exactly as good as another's.

Now education for citizenship would seem to consist in gaining a knowledge of the actual workings of our social organization, with some illuminating notions of its origin, together with a full realization of its defects and their apparent sources. But here we encounter an obstacle that is unimportant in the older types of education, but which may prove altogether fatal to any good results in our efforts to make better citizens. Subjects of instruction like reading and writing, mathematics, Latin and Greek, chemistry and physics, medicine and the law are fairly well standardized and retrospective. Doubtless there is a good deal of internal change in method and content going on, but this takes place unobtrusively and does not attract the attention of outside critics. Political and social questions, on the other hand, and matters relating to prevailing business methods, race animosities, public elections, and governmental policy are, if they are vital, necessarily "controversial." School boards and superintendents, trustees and presidents of colleges and universities, are sensitive to this fact. They eagerly deprecate in their public manifestos any suspicion that pupils and students are being awakened in any way to



the truth that our institutions can possibly be fundamentally defective, or that the present generation of citizens has not conducted our affairs with exemplary success, guided by the immutable principles of justice.

How indeed can a teacher be expected to explain to the sons and daughters of business men, politicians, doctors, lawyers, and clergymen—all pledged to the maintenance of the sources of their livelihood—the actual nature of business enterprise as now practiced, the prevailing methods of legislative bodies and courts, and the conduct of foreign affairs? Think of a teacher in the public schools recounting the more illuminating facts about the municipal government under which he lives, with due attention to graft and jobs! So, courses in government, political economy, sociology, and ethics confine themselves to inoffensive generalizations, harmless details of organization, and the commonplaces of routine morality, for only in that way can they escape being controversial. Teachers are rarely able or inclined to explain our social life and its presuppositions with sufficient insight and honesty to produce any very important results. Even if they are tempted to tell the essential facts they dare not do so, for fear of losing their places, amid the applause of all the righteously minded.

However we may feel on this important matter, we must all agree that the aim of education for citizenship as now conceived is a preparation for the same old citizenship which has so far failed to eliminate the shocking hazards and crying injustices of our social and political life. For we sedulously inculcate in the coming generation exactly the same illusions and the same ill-placed confidence in existing institutions and prevailing notions that have brought the world to the pass in which we find it. Since we do all we can to corroborate the beneficence of what we have, we can hardly hope to raise up a more intelligent generation bent on achieving what we have not. We all know this to be true; it has been forcibly impressed on our minds of late. Most of us agree that it is right and best that it should be so; some of us do not like to think about it at all, but a few will be glad to spend a little time weighing certain suggestions in this volume which may indicate a way out of this impasse.

## CHAPTER VII

### TECHNIQUE OF SOCIAL INVESTIGATION

#### 22. THE GENERAL METHOD OF STATISTICAL INVESTIGATION<sup>1</sup>

At first sight it will seem as if there were no method common to all statistical investigations, and indeed the processes differ so widely that it is not easy to outline a scheme which will include them all; but the following sequence is generally indicated<sup>2</sup> as of general application, and will serve at least to thread an examination of methods together: (1) the Collection of Material, (2) its Tabulation, (3) the Summary, and (4) a Critical Examination of its results. . . .

*Preliminary knowledge necessary or expedient.* It may be well to state what equipment is necessary for the student who wishes to learn statistical methods. In collection and tabulation common-sense is the chief requisite, and experience the chief teacher; no more than a knowledge of the simplest arithmetic is necessary for the actual processes; but since, as we shall see immediately, all the parts of an investigation are interdependent, it is expedient to understand the whole before attempting to carry out a part. For summarising, it is well to have acquaintance with the various algebraic averages, and with enough geometry for the interpretation of simple curves, though all the operations can be performed without the use of algebraic symbols. For criticism of estimates and interpretation of results, it is necessary to use the formulæ of more advanced mathematics, and it is obviously expedient to understand the methods by which these formulæ are obtained to ensure their intelligent use. They are specially necessary for the comparison of complex groups, and for estimating the significance of a divergence from the average, or the deviations in a list of periodic figures.

<sup>1</sup>From *Elements of Statistics* (pp. 17-20), by Arthur L. Bowley, M.A., F.S.S., Professor of Statistics in the University of London. P.S. King & Son, London, 1901.

<sup>2</sup>See, for example, Dr. Bertillon's *Cours élémentaire de Statistique*, to which the present author is indebted for some of the treatment in the following pages.

1. *Collection: blank forms; nature of the questions.* Information is generally collected by issuing blank circulars, forms of inquiry, to be filled in either by a few officials or by many individuals, and the proper drawing up of this form is one of the chief tasks in a good investigation. Before this form is issued it is necessary to formulate a complete scheme of the whole undertaking, and even to have some idea of what the resulting figures will be, so as to be able to arrange the details of the organization on the right scale, and adjust the tools used to their purpose. As already pointed out, the object whose measurement is wanted is not in general exactly that which can be measured, and the measurable quantity nearest to it must be found; e.g., when the average annual earnings of the working class were in question, the quantity first measured was the average weekly wage. Then some technical knowledge of the particular subject is needed; and, if not possessed, a preliminary inquiry on a small scale may be necessary to show how to fit means to ends. The people who possess the information required must be discovered and interrogated at first hand. The questions put must be those which will yield answers in a form ready for tabulation, and the scheme of tabulation must therefore be thought out beforehand. The questions must be so clear that a misunderstanding is impossible, and so framed that the answers will be perfectly definite, a simple number, or "yes" or "no." They must be such as cannot give offence, or appear inquisitorial, or lead to partisan answers, or suppression of part of the facts. The mean must be found between asking more than will be readily answered and less than is wanted for the purpose in hand. The form must contain necessary instructions, making mistakes difficult, but must not be too complex. The exact degree of accuracy required, whether the answers are to be correct to shillings or pence, to months or days, must be decided. Every word and every square inch of space must be keenly criticised. A little trouble spent upon the form will save much inconvenience afterwards.

2. *Tabulation.* In considering what method is to be adopted for tabulation, we must remember that the investigation is intended to furnish the answers to certain definite questions—how many people, what wage, what price—and each column must present some total which is relevant to these questions. The exact scheme employed will differ in different inquiries. In the population census, the tabu-

lation is almost automatic ; in the wage census, the best and simplest way to show the grouping about the average wage in each occupation had to be specially devised ; in trade statistics the number of different categories to be adopted and the limits of each raise difficult questions. In general, the scheme of investigation requires knowledge of certain groups ; and the totals resulting from tabulation should show the numbers of items in these, so that after tabulation, instead of the chaotic mass of infinitely varying items, we have a definite general outline of the whole group in question.

3. *Averaging and summarisation.* When the raw material is worked up to this point, skill of a different kind is wanted. From the numbers obtained, we have to pick out the significant figures ; so to present the totals and averages as to give a true impression to an inquirer ; to summarise briefly the information obtained ; to concentrate the mass into a few significant averages, and to describe their exact meaning in the fewest and clearest words, for it is the result of this concentration which will generally be used and quoted. To do this skilfully requires an acquaintance with the method of averages and the use of diagrams. It may further be necessary to fill in unavoidable gaps in the figures in order to supply estimates for intermediate years ; this needs a study of the dangerous method of interpolation. Finally, the verbal description of the process, its genesis and results, and an estimate of its accuracy must be added, and then the investigation is complete.

4. *Criticism of results.* The student who has to make use of statistics should not be content to take the results of an inquiry on authority, but ought to acquaint himself with all these details of method. Before the results can be criticised, it is necessary to know the complete genesis of the figures ; whether the whole field was covered ; exactly whence the information tabulated was obtained ; whether there was a possibility of bias ; how nearly the individual answers were correct ; whether the informants really knew the facts they related, and if they were likely to state them correctly. The published statement of the results should show clearly the whole scheme of collection so as to make this criticism possible ; in particular, specimens of the original blank forms should be included, so that the reader can judge whether the original answers correspond exactly to the form of tabulation employed. Internal evidence often leads to much useful criticism. It can be seen whether the number of



returns for each group is proportional to its importance, or if a specially important figure depends on only slight evidence. The continuity of the figures can be examined, and the causes of sudden gaps investigated. The returns can be divided into sample groups, and the extent of the correspondence of these groups to the general result will often indicate whether the returns are sufficiently general. A careful study of the more minute tabulations may show within what percentage the final numbers may be expected to be correct.

The most important function of statistics is to produce evidence showing the relation of one group of phenomena to another; for the information obtained is presumably intended as a guide for action, the guidance is generally needed to show what actions are likely to produce certain desired effects, and this is best investigated by finding how such effects have been produced in the past. We have then to determine whether changes in one measurable quantity (e.g., the duties on corn) have produced changes in another (e.g., the amount of pauperism); a problem generally insoluble, but one on which most light can be obtained by the study of the relevant statistics in the light of mathematics, the mathematics of probability, and it is in this particular branch of mathematics that recent statistical progress has been chiefly made.

### 23. THE TECHNIQUE AND CRITERIA OF SOCIAL SURVEYS<sup>1</sup>

The procedure of the composite social survey varies with the locality and with the purpose of the investigation. An expert who might be a director of the industrial section of an urban survey would probably be incapable of directing the farm management section of a rural survey. An expert school man might be out of place in a religious survey, and an expert sanitarian would not necessarily make a good school surveyor. The point is not that an expert may be called upon to analyze any sort of a social situation but that a director in whose hands the survey is placed may employ those experts best fitted to investigate the chosen elements of the composite.

<sup>1</sup> By Carl C. Taylor, Ph.D., Professor of Sociology in the North Carolina State College of Agriculture and Engineering. Adapted from "The Social Survey, Its History and Methods," *University of Missouri Bulletin*, Vol. XX, No. 28, pp. 37-48, 64-65.

Practically every method used by the social survey is also used in other investigations. Many of these methods were used in other investigations long before the modern social survey was developed. The contribution of the social survey is that it is a composite of these methods. The Pittsburgh investigation was a survey because experts were assembled from the fields of charity, labor problems, housing, and health and sanitation. All the sources of information within and about the city were thrown open, and all the technique and technology of social investigation were utilized to analyze this industrial community. A sketch of this or any other comprehensive survey should suffice to illustrate the composite method of gathering, tabulating, and reporting a complete social situation. These studies usually have four quite definite steps in their development: (1) the getting of a bird's-eye view of the community, that is, seeing the field as a whole; (2) the differentiation of the separate fields for detailed investigation; (3) the gathering and tabulation of the data; (4) the report of the facts to the community and to the world at large. The first step is accomplished in a number of ways, the simplest of which is merely getting a population census of the community. At Pittsburgh a quick diagnosis of a score of phases of life was first made to get a view of the field as a whole. This was for the purpose of making a blue print, so to speak, of the community. Out of the knowledge obtained from this pathfinder investigation, which lasted from six weeks to two months, six deeper and more extended special investigations grew, namely; (1) an inquiry into hours, wages, and labor organizations; (2) a study of household life and costs of living; (3) a study of five hundred cases of workmen killed, including an inquiry into hospital treatment; (4) a survey of women-employing trades; (5) a study of economic costs of typhoid fever; (6) a survey of child-helping institutions and agencies.<sup>1</sup> After the data had been gathered, and whenever possible while they were being gathered, the mapping, diagramming, and other statistical work were carried on by a special staff. The field investigation, which had been in operation all during the survey and even before it started, was then completed, thus accomplishing the ultimate purpose of the investigation. This purpose, as outlined by Mr. Kellogg, director of the survey, was, "That of making the town

<sup>1</sup> P. U. Kellogg, *The Pittsburgh District*, p. 498. Russell Sage Foundation, New York, 1909.

real to itself, not in a goody-goody preachment of what ought to be; not in a sensational discoloration; not merely in a formidable array of rigid facts. There was the census at one pole; and yellow journalism at the other." The publicity scheme was carried on through the media of luncheon meetings, newspapers, magazine articles, pamphlets, exhibits, special issues of the Charities and the Commons, and finally by the publication of the complete survey in book form of six volumes.<sup>1</sup> Thus the Pittsburgh Survey brought together practically all the methods of investigation which had developed up to that time.

Social description had aroused vague notions concerning many community problems, census taking had presented some cold statistics, case records had furnished a wealth of social information concerning the dependent portion of the community's population, special investigation had done somewhat the same thing for the whole country and had coupled with its data a method of publicity. Not until the Pittsburgh Survey, however, had these methods of analysis and description ever been brought to serve a common purpose, namely; the purpose of making a given community self-conscious of its every day life, and of revealing to all other similar communities something of their social organization. This survey attempted to make an inventory of the whole community by discovering and revealing its many maladjustments and adjustments as a single social situation. The step it took, or the start it made in that direction has been followed by the directors of practically all surveys that have been made since. Indeed the beginnings made at Pittsburgh have been so consistently followed and improved upon that there can now be said to be a well recognized technique of social surveying.

Surveys are of many and various kinds and are made for many and various purposes. Very few surveys have attempted to be as complete as the Pittsburgh Survey, but consciously or unconsciously, all have followed in a general way its method of obtaining facts. But not all social surveys are composite or synthetic surveys. A very great percentage of them are what might be called "segmental" surveys; that is, a single set of institutions, facts or factors, is surveyed. Such are the school, church, industrial, housing, child welfare, and many other single problem surveys. In such surveys the procedure is necessarily modified. The four major steps in technique are adapted to fit the

<sup>1</sup> P. U. Kellogg, *The Pittsburgh District*, p. 508.



situation, whatever it may be, but are neither dispensed with nor violated. The bird's-eye view of the general social situation is just as necessary for the "segmental" survey as it is for the composite survey.<sup>1</sup> This does not mean that a pathfinder survey, such as was the first step, in the Pittsburgh Survey, must be made. It does mean, however, that the social surveyor must be sufficiently familiar with the community to be able to map out his plan of campaign, to make a blue print of the structure of the community's life. It may be that he has lived in the community so long that he already has the necessary knowledge. If this is not the case he may be able to get this knowledge from local agencies and institutions. He may have had sufficient experience in other similar communities so that he has a pretty thorough appreciation of this community and its problems. In any case he, as an expert, must recognize the necessity of a general prognosis before starting upon his detailed diagnosis.

The second step in the procedure of survey technique is more thoroughly modified in the "segmental" survey than any of the other steps. In a single problem survey there is likely to be but one surveyor, or at least but one set of schedules. It might, therefore, seem that there could be no differentiation of task other than a division of territory. Even so small a point as this would probably be better served in the light of type of territory in conjunction with this or that type of investigator. No single problem survey—worthy of the name—is so simple as all this. It is not the purpose of a social survey merely to cover territory but to discover facts. In order to get these facts and be sure he has them exact, it is always necessary for the investigator to verify them, or even amplify them, from other sources. These sources should be known and consulted before the survey is begun. A pathfinder survey will discover them. A proper differentiation of tasks in the method of conducting the survey will make the maximum use of them. This fact should become clearer as we describe the method of gathering and tabulating the facts sought by the survey.

Where the survey is to be a comprehensive enough investigation to involve any large number of the citizens, it is generally preceded by a definite publicity campaign. For example, in the case of the Springfield Survey this publicity campaign preceded the field work by about

<sup>1</sup> F. H. McLean, et al, *Survey of Charities of City of Burlington*, p. 11.



three months, was continued during the entire investigation, and was greatly elaborated during the survey exhibit.<sup>1</sup> The purposes of the publicity campaign are to enlist the workers and agencies of the community, to mobilize and generate sentiment for carrying on the investigation, to make it easier to gather the facts, and to prepare the community for the findings of the survey. One of the most important factors in a successful publicity campaign is to make large use of local talent. The greater the number of the community's citizens that can be enlisted in some phase of the survey, the more ready will the community be to carry out the ultimate recommendations of the survey. The trustworthiness of the facts gathered by amateurs is not as great as if they had been gathered solely by experts, but the effect of these facts in the community is probably much greater, because of the community consciousness which has been awakened by the use of the amateurs.

Before the survey proper can begin, the machinery for the field work must be prepared. The making of the survey schedules is the most technical procedure antecedent to the compilation and correlation of the data, for upon the categories which the schedules contain depend wholly the quality and almost wholly the quantity of data that will be gathered. The type of schedule will reflect or show the type of survey to be made, the general knowledge of the surveyor, the facts discovered by the pathfinder survey, and the means by which the schedules are to be filled. If the survey is a composite investigation the sets of schedules will be as numerous as are the segments of the investigation. If it is to be a "segmental" survey, there will be but one set of schedules. In either case they can be adequately formulated only after the surveyor has made himself thoroughly familiar with what there is to be known about the general field in which he is to operate. This knowledge he should have gained through making previous similar investigations or through published reports of such investigations. In the earliest surveys, and even today in the case of some surveys, the only possible source of information is the body of knowledge obtained through the types of investigations already described. In rare cases it may be possible that he will have to fall back upon the theoretical body of thinking which has developed in that given field. The pathfinder survey should do much to give direction

<sup>1</sup> S. M. Harrison, *An Effective Exhibition of a Community Survey*.

to the schedules. There is nothing which proves the need of some antecedent knowledge so thoroughly as the experience that beginning surveyors usually have with schedules which are not properly prepared and so fail to gather all the facts. Fortunately this defect becomes apparent immediately upon beginning the survey and can be remedied, though always, of course, at the expense of preparing new schedules or revising old ones.

The exact form of the schedule will depend also on the method by which it is to be filled. If it is to be mailed as a questionnaire, the categories will have to be less detailed and more explicit. If the schedule is to be filled by the surveyor himself, then it may be much more detailed and the categories need not be set forth in question form. In any case the categories must be so arranged and be so specific that the same data will appear in them no matter by whom they are filled. The best way of assuring this result is to seek quantitative or near-quantitative replies to all questions. It should be remembered that the survey attempts to be more than mere social description. Its categories, therefore, must be filled by other than mere descriptive terms. Such questions as "how much," "how many," "how often," "at what time," must be the rule. The surveyor is asked to limit his description to two or three terms, such as good, fair, bad; dry, damp, wet; new, modern, old; terms that can be reduced to statistical form in the process of tabulation. The surveyor may find this hard to do for various reasons. He may be filling his schedules from answers given him by people who have never before attempted to reduce their opinions or knowledge of the facts sought to such exact terms. In many cases the person questioned will be unwilling to give a definite answer. In such cases the surveyor will have to make his own decision, based on indirect or detailed questioning or outside knowledge. If the client insists on giving only qualitative answers, the surveyor is under the necessity of translating or converting these qualitative statements into quantitative form. There is always the possibility that the client will misunderstand the question and thus give the wrong information. Against this the surveyor can fortify himself in numerous ways; first, by keeping the categories of his schedules simple; second, by knowing enough about similar facts to instantly mistrust the information and thus correct the mistake by a question which will put his client right; and third, by checking his findings

from other sources of information. In all cases, both in making the schedules and in gathering the data, the surveyor must keep in mind the fact that exact tabulation and concrete presentation of his facts are the ends toward which he is working.

Some of the above statements suggest that there is an art as well as a science of social surveying. Such unquestionably is true. The whole technique of field work is an art. A wrong method of approach to the client may vitiate the whole schedule or fail to get it filled at all. The author believes as a general rule the best approach or introduction is to be obtained through a frank statement of the purpose of the survey. If the project has been preceded by a well-timed publicity campaign, the approach will be easy. In no case can the investigator expect to get his data without some explanation of why he wants it. The surveyor is not a detective and the more frankly he states the purpose of the survey, the better the relationship he establishes with his client. Needless to say, there are some situations where such frankness would at once close the door of his opportunity. The client may be ignorant, suspicious, or openly opposed to the project. If ignorance is the obstacle, the surveyor will have to act as interpreter between the client and his schedule. If suspicion is the obstacle, he will have to be constantly on guard against wilful misrepresentation of facts getting into the record. If open defiance and protest is the obstacle, he may have to fill his schedule from observation or from other sources. Another possibility is that the client may purposely misrepresent the facts for the sake of some egoistic end which he thinks he can gain. Such a case can and should be checked through other sources. The client also may forget some items which the surveyor from his previous knowledge may have reason to believe are present. Indirect and suggestive questioning will probably get the data though the surveyor should be careful not to ask leading questions or in any way so formulate his questions as to get answers which the client would not honestly have otherwise given.

If there is a difference in the manner by which schedules are filled, some from one source and some from another, this difference should be marked and taken into consideration in the compilation of the complete data. For insistence cannot be too emphatically placed upon the need of accuracy in order that the facts may be trustworthy and comparable. A schedule would better not be filled at all than to be



filled inaccurately. One of the steps in survey technique is the use of checks to ratify, amplify, or ramify the findings of the house-to-house schedules. Survey schedules are prepared with these checking sources in mind. Public records of all kinds—marriage, and divorce records, jail and court records, tax records, and many others, should be examined. In short the records of all agencies and institutions which touch the family's life should be made use of. Physicians, teachers, pastors, charity agents, and policemen, should be consulted. The history of the community, and the geography or physiography of the community should be taken into consideration. Mental and physical tests of certain types or classes add much to the specific knowledge and interpretation of data. In short, no social survey has completed its task until it has thoroughly studied the whole social situation in its origin, development, and present status. This is why the social survey is and must be a composite investigation. It studies all the factors, phases, and tensions of the community's life and utilizes all the sources from which any information can be obtained about the community.

From what has been said, it should be clear that the field work of the survey is by no means its most difficult task. Its most difficult task is the compilation and tabulation of the data and the presentation of results and conclusions to the community. In a survey of the magnitude of the Pittsburgh Survey or the Springfield Survey, the work of tabulation, compilation, and correlation is turned over to a corps of expert statisticians. In less comprehensive surveys or in surveys made of small communities, the work will probably be done by the same persons who gather the data. This has both its advantages and disadvantages. The chief disadvantage is that the tabulation and correlation may not be done by persons who are thoroughly skilled statisticians. The chief advantage is that the persons who filled the schedules are best acquainted with them, and thus may be capable, from memory or notes, of strengthening weak or defective data. In no case, however, should schedules and categories be included in the tabulation unless they are trustworthy. Even if it is necessary to eliminate whole schedules or categories from a number of schedules, the compilation should be made only upon those that are reliable. Conclusions can then be safely drawn from the body of data compiled, and the survey findings or exhibit can be presented to



the community with the assurance that it is being apprised of its true social condition.

The method by which and the form in which the findings of the survey are presented to the community are fairly well standardized. The most universally used form of presentation is that of formal publication in book or bulletin form. The Pittsburgh Survey findings were published in six large volumes. The Cleveland Survey findings were published in twenty-seven small volumes. The findings of most "segmental" surveys and some composite surveys of small communities are published in a single book or bulletin.

### *Criteria of the Social Survey*

It is our purpose to compare, as concisely and as briefly as possible, the general methods and criteria of science with the methods and criteria of the social survey, to check the methods of the social survey by the recognized methods of science and thus get some appreciation of the possibilities and limitations of the social survey as a scientific method of social research.

We know of no more definite means of comparing the methods of the social survey with the methods of science than that of stating, as definitely as possible, the criteria of science and then stating the demonstrated procedure of social surveys. The first and most important criterion of science is that it be a method of exact and impartial analysis of facts.<sup>1</sup> The social survey, without a single exception, so far as the writer knows, has developed upon the basis of impartial analysis. It has developed practically outside the field of theoretical sociology and so has escaped altogether any preconceived notions which social theorists may have had. The case worker and other expert field workers who have developed the method of the social survey have cared only for the facts which were actually operative in the community where they labored. They accumulated a large body of data for the sake of carrying on specific projects, with no thought of its scientific significance, but we have come to see that these data are the basic facts out of which social theory must be

<sup>1</sup> K. Pearson, *The Grammar of Science*, p. 9; H. Poincaré, *The Value of Science*, p. 137; E. Mach, *Popular Scientific Lectures*, p. 232; F. Enriques, *Problems of Science*, p. 67.

formed. These social workers and investigators have been not only impartial in their collection and analysis of facts, but they have also been exact in their methods. They were seeking these facts only because they wanted to use them for very definite purposes. These definite purposes demanded that the facts be exact, that they be representative of some very definite condition or situation, and that they be so specifically stated that other social workers would be able to understand and use them.

The second criterion of science that we would name is that the phenomena which are the objects of investigation be typical, that they be representative of a species, a type, or a class of facts.<sup>1</sup> The social survey attempts to meet this criterion. Not all surveys have been made with the purpose of investigating or discovering typical situations, typical counties, or typical communities and typical sections of communities. Many of them, however, have specifically stated this to be their purpose. To what extent they have accomplished this purpose we shall probably be unable to state until a much greater number of surveys have been made. The only thing that we can definitely assert at this stage of development of the social survey is that many social surveyors hold it as their ideal to discover and reveal typical phenomena.

The third and final general criterion of science is that it discovers or formulates scientific laws.<sup>2</sup> The social survey lays no claim to having accomplished this final step in scientific method. Social surveying is the task of the expert. The formulation of the laws of science is the task of the scientist.

<sup>1</sup> K. Pearson, *op. cit.* p. 29; H. Poincaré, *op. cit.* p. 140; E. Mach, *op. cit.* p. 194; F. Enriques, *op. cit.* p. 50.

<sup>2</sup> K. Pearson, *op. cit.* p. 37; H. Poincaré, *op. cit.* p. 13; E. Mach, *op. cit.* p. 156.

## CHAPTER VIII

### EDUCATION AND CHARACTER BUILDING

#### 24. EDUCATION<sup>1</sup>

In handing on to a new generation its notions of what life means, of what the several instincts mean, society is compelled to face itself, take stock of its ideas, pass judgment upon itself. The advantage of education, therefore, is not exclusively to the young. Dealing with growing minds, society perforce domesticates the principle of growth: for self-consciousness is never purely complacent, least of all when its eyes are the critical and questioning eyes of a child, a new vital impulse, unharnessed and unbought.

It strikes us as notable—when we think how severe is the effort of self-review, and how little satisfying—that society has never been content simply to let its young grow up. Unintentional suggestion might conceivably have been left to do its work on a gregarious and imitative human substance. To an unknown degree children always educate themselves, and what they thus do is well done. But from earliest visible times, educating has been a deliberate process. Human beings clearly like to educate: for better or worse this activity is an especially human form of the parental instinct. It looks at times as if the young serve simply as a stimulus to an activity of the elders of which they, the children, become the helpless objects, an activity which tends to increase without limit as leisure and the economic margin grow. Children create the necessity, but also the exciting opportunity, for society's effort to make vocal the sense of its ideals, customs, laws, and (ominous word) to inculcate them.

But though a profound human interest, analytic self-consciousness is difficult and slow of growth; and as individual self-consciousness begins in the form of memory, social self-consciousness begins in the

<sup>1</sup>From *Human Nature and its Remaking* (pp. 226-253), by William Ernest Hocking, Ph.D., Professor of Philosophy in Harvard University. Copyright, 1918, by the Yale University Press, New Haven.

form of history. For this reason, society has always tried to expound itself largely through the story of its own past, its folklore, epic, and myth. But with history there has been from the earliest times a demand for images of that to which history leads, images of a more completely interpreted will such as have hovered before the imaginations of dreamers, prophets, reformers. Thus in the work of educating, social self-consciousness expands until it envisages more or less darkly the entire tale of tribal destiny from its beginnings to its goal.

Because education requires this self-conscious looking before and after, a discussion of education in the midst of a book on the remaking of human nature must anticipate the end, and in some degree mirror the entire undertaking. But deliberate educational effort has its own specific part to play, more or less separable from other parts of the remaking process. Bending over the younger generation during the long years before the full impact of law and institution is allowed to reach them, transmitting its wishes through the protecting (and no doubt refracting) media of family and school, speaking at least as much through what it is as through what it tries to say for itself, society in educating is exercising a function whose purpose, like that of most natural organs, we but gradually become fully aware of. In our day education affects the technical; it becomes highly doctrinaire; it is the jousting place of all the new realisms, pragmatisms, behaviorisms, psychologisms of all brands. We need to think anew of the nature of this organic function and of its control.

There was a time when we might have defined education as a continuation of the reproductive process. Physical reproduction supplies more of the same species: social reproduction supplies more of the same tribe or nation. From the beginning of organized social life, each people has regarded its own folkways as an asset, distinctive and sacred; in imposing them upon the new brood it has supposed itself to be conferring its most signal benefit. And the newcomers, most of them, seem to have adopted this view: they have as little fancied it a hardship that the social order should impose its type upon them as that their parents should have given them their physical image. It has simply completed the definition of what they are.

We have not outgrown this conception of education. We still speak of it as a 'preparation for life,' understanding by 'life' a certain kind of life, that which marks out our own group or nation. It still seems



to us the essential failure of education that our children should find themselves a misfit in 'life'; so we steer them toward the existing grooves of custom as a matter of duty—I do not say of duty to society, but of duty to the children themselves. Discussing the place of classics in Prussian schools, Kaiser Wilhelm II said (December, 1890), "It is our duty to educate young men to become young Germans, and not young Greeks or Romans." And what do other nations expect of their schools, if not to bring forth after their kind? What are the facts of our own practice?

We certainly do not put all traditions on the same level, any more than all languages or all sets of laws. But neither we nor any other modern nation limits its offering to its own type. We train our wards to some extent to become young Greeks, Romans, Britons, Frenchmen, Germans, Asiatics, as well as young Americans. We teach them history and geography, not indifferently, but still to a liberal distance from our own center of space and time. We pave the way to literatures other than our own. We discreetly announce the existence of other religions. Better than this, we offer them at the outset the free and primitive worlds of fairyland and legend where all desires find satisfaction. We give them poetry and drama, dealing with social orders invitingly different from the actual order, such as must set tingling any cramped or unused nerve in growing nature, and so give voice to the latent rebel in our youth, or the latent reformer. Our homes and schools habitually look out upon 'the world' not as a decorous and settled place, but as a comparatively perilous and unfinished place, calling for much courage and chivalrous opposition, requiring much change. The career of the hero who redresses an untold number of wrongs still hovers as a wholly accessible destiny before the fancies of our childhood. To this extent, we warn our successors-to-be against our own fixity, put the world before them, and set them free from our type.<sup>1</sup>

<sup>1</sup> Admitting all the abuses of mechanical and wholesale popular schooling, I must decline to believe as the primary truth of any modern nation that "It is not in the spirit of reverence that education is conducted by States and Churches and the great institutions that are subservient to them" (B. Russell, *Principles of Social Reconstruction*, p. 158). I know of no society which fails to wish its children a better life than its own. And especially at this moment, in the war-ridden states of Europe a deep and pathetic tenderness toward childhood is evident, as if to say, "We have made a mess of our world: yours must be a better one." This spirit is making itself felt in thorough revisions of the plan of education in France and England.

And to this extent, we recognize that education has two functions and not one only. It must communicate the type, and it must provide for growth beyond the type. It is not a mere matter of spiritual reproduction, unless we take reproduction in the wider sense as an opportunity to begin over again and do better, the locus not alone of heredity but of variation and of the origin of new species.

But why insist at all upon the reproducing of the old type? and why limit to "this extent" the scope of the liberty of choice? Why do we not display with complete equableness all views of the best way of life and say, "Now choose; think out your course for yourselves"? Instead of teaching our children our morality, why not teach them ethical science? instead of religion, metaphysical criticism? instead of our political faith, political philosophy? instead of our manners, the principles of æsthetics? In short, why not make thinkers of them rather than partisans? Why not abolish the last remnant of that ancestor-worship which dwarfs the new life by binding it to the passing life?

The answer is, we have no right to aim at any smaller degree of freedom than this, nor, for the most part, do we: but before a completely free will can be brought into being, it is first necessary to bring into being a will. The manifest absurdity of asking a child to choose his own moral code and the rest is due not alone to the fact that he lacks the materials to choose from, but still more to the fact that he does not know what he wants. The first task of education is to bring his full will into existence. And this can only be done by a process so intimate that in doing it the type is inevitably transmitted. The whole meaning of education is wrapped up in this process of evoking the will; and apart from it nothing in education can be either understood or placed.

The will can develop only as the several instincts wake up and supply examples of the goods and evils of experience. To bring instincts into action, all that any social environment need do (and almost all it can do<sup>1</sup>) is to supply the right stimulus, together with an

<sup>1</sup>Noting in passing that the exhibition of instinctive behavior often acts by suggestion as a substitute for the direct stimulus; and in gregarious animals as an alternative stimulus. And further, just as artificial respiration may lead to actual breathing, so a mechanical repetition of instinctive behavior even under duress may sometimes work backward, as if breaking a way through an occluded channel, to set an instinctive impulse free.

indication of what the stimulus means. A response cannot be compelled; for whatever is compelled is not a response. No behavior to which we might drive a child would be play: if playthings and playing comrades fail to bring out the play in him, we are all but helpless. A response can only be *e-duced*.

If we were dealing with an organism whose instincts we did not know, the educing process would consist in exposing that organism, much as one would expose a photographic plate, to various environments to see which ones would elicit reactions. And in dealing with a new human being, always unknown, the work of educing his instincts would likewise consist in exposing him to those stimuli which may appeal to him,—to speech, to things graspable or ownable, to color, form, music, etc., to the goods of cleanliness, truthfulness, and the like. What powers any child has of responding to these things, whether or how far they will take in his case, neither he nor we can know until he has been exposed—and perhaps persistently and painfully exposed—to specific examples of these goods.

This exposure is the first work of education.

And the first peril of education is not that the child's will will be overborne, but that through no exposure or inadequate exposure to the objects that would call out his best responses, he achieves only half a will instead of a whole one, a will partly-developed and therefore feebly-initiative, casual, spiritless, uninterested. If I were to name the chief defect of contemporary education, it would not be that it turns out persons who believe and behave as their fathers did—it does not: but that it produces so many stunted wills, wills prematurely grey and incapable of greatness, not because of lack of endowment, but because they have never been searchingly exposed to what is noble, generous, and faith-provoking.

Mr. Bertrand Russell voices a common objection to immersing the defenceless younger generation in the atmosphere of the faiths religious and political that have made our nations.<sup>1</sup> Has he considered whether in these faiths there lies anything more than the wilful choice of an unproved theory, anything of human value such as a growing will might, for complete liberation, require exposure to? Politically guided education, he feels, is dangerous, and so it is. But I venture to say that the greatest danger of politically guided educa-

<sup>1</sup> *Principles of Social Reconstruction*, chapter on "Education."



tion, particularly in democracies which feel themselves obliged in their educational enterprises to cancel out against one another the divergent opinions of various parties, is that the best places will be left blank, because it is on the most vital matters that men most differ. The pre-war experience of France in secularized education has furnished a striking instance of the principle that in education a vacuum is equivalent to a negation. In one case as in the other, instinct is robbed of its possibility of response.

Children have rights which education is bound to respect. The first of these rights is not that they be left free to choose their way of life, i.e., to make bricks without either straw or clay. Their first right is that they be offered something positive, the best the group has so far found. Against errors and interested propaganda the growing will has natural protection: it has no protection against starvation, nor against the substitution of inferior food for good food. No social authority can make pain appear pleasure. No social authority can make a stimulus of something which has no value. But it is quite possible, through crowding out the better by the worse, to produce a generation which thinks "push-pin as good as poetry," prefers bridge to sunsets, or worships the golden calf.

But there is a radical and obvious difference between exposing a plate to the light and exposing a human instinct to a possible stimulus. Anybody can expose the plate, a machine can expose it: the operation and the stimulus are alike mechanical. But for the human being there is many a possible stimulus which lies partly or wholly outside the world of physics.<sup>1</sup> In these regions of experience, neither a machine nor any random person can achieve an exposure.

It is true that for most of the 'units of behavior' which men have in common with the rest of the animal kingdom, the stimuli are strewn about in such profusion that exposure takes place with little or no need for social guidance. It is a commentary upon the artificiality of our urban society that a Mme. Montessori is required to remind us of the need (among other things) of sufficient and varied tactile stimuli in early years. Haphazard encounters with strings, stones,

<sup>1</sup> As an example, the stimulus of the 'instinct of curiosity'; see Hocking, *Human Nature and its Remaking*, p. 62. It is important to bear in mind through this discussion that the 'stimulus' of an instinct is understood to be 'the perception of the end as the meaning of the initial situation'; *ibid.* p. 42.



and sticks, now kept carefully 'cleaned up' and out of reach, aided by personal struggles with the more exact weapons of toilet and table, once provided most of the stimuli which we must now measure out with psychological ingenuity. Hereby we are making no doubt essential progress in self-consciousness; but for young children, country life and self-help are still the unmatched educators of their primary instincts.

But for the specifically human developments of instinct, the stimuli are commonly either non-existent or imperceptible except through the behavior of other human beings who are actively responding to them. Of these, the principle holds that no one can expose a child to that stimulus unless he himself appreciates it. Imagine to what experience an unmusical person might expose a child under the name of music. Consider what it is to which many a human being has been exposed under the name of mathematics. To many the true statement that number is an object of profound instinctive interest would appear a mockery because, having fallen into the hands of the Philistines in the days of their initiation into the world of number, they have never so much as come into view of its peculiar beauties.

But it is especially with regard to those modes of interpreting instinct which constitute our moral and religious tradition that this principle becomes important. For no one can so much as present the meaning of an idea of this kind,—let us say of a particular way of meeting pain or injustice, a Spartan way, a Stoical way, or some other,—unless he himself finds satisfaction in that idea. And then it follows, since satisfaction and happiness are highly convincing states of mind (understanding by happiness not temperamental gaiety, but the subconscious and hence serious affirmation of life as a whole by the will as a whole),—it follows that children will tend to adopt the beliefs of those whom they instinctively recognize as happy, and of no others.

This is both a protection to children and a danger. A protection: for surely the child who has found no hero in the flesh from among the supporters of the existing order is in no danger of being overborne by that order. If a tradition can get no great believers, it will die a natural death. If the wilder people are genuinely the happier,—Bohemians, *déclassées*, gay outlawry in general,—it is they who will convince and be followed. If sobriety, self-restraint, all the

"awful and respectable virtues" have a value, whether as necessary nuisances on the way to some great good, or as goods on their own account, they will find a following through the persons of those who are enamored of those goods, so far as such persons become known.

If the social group is simple, any genuine values it has will be likely to find their way into new minds. One of the most marvelous examples of social conservation has been the transmission of folksong; yet if any tradition has been spontaneous and unforced, this has been. But in our modern complex and split-up societies, the chances grow large that many children are never reached by our best ideas, transmitted through an overworked and not markedly happy teaching body.<sup>1</sup>

In any case, what is transmitted is that intangible thing we call belief, the effective belief of the teaching surface of society. And since the type of any society is chiefly defined by its prevalent beliefs, we see why it is that the process of bringing a will into existence inevitably tends, as we said, to reproduce the type.

Perhaps it is the best of our values that lead the most perilous lives, are most easily lost or defaced in the relay of the generations: but determination and system will not save them. Ethics and religion must be removed from set courses of public instruction unless the believers are there; for mechanical teaching of these things is worse than none. Every society has, beside its rebels who are fre-

<sup>1</sup>If the chief excellence of teachers in a parsimonious democracy is to spend much time, teach as many as possible, make neat reports showing high averages of prize-made punctuality, and 'prepare' their charges for the enjoyment of something else than what is before them, we shall produce and deserve little else than a constitutionally weary and commonplace citizenry.

The idea of 'preparation,' an indispensable workshop notion for those who consider educational systems as a whole, is a disease when it becomes prominent in the minds of the children. What children, and poets, never forget is that "Life is now! the center of the universe is here! the middle point of all time, this moment!" If children are led, for example, to read good writers in order that they may hereafter enjoy good writers, their chance is lost. The only justifiable reason for putting a good writer into their hand is that he is good and can be enjoyed then and there. I do not say understood: for children have great powers of living on a future understanding.

That the first qualification of a teacher is to be happy has perhaps never been propounded as an educational doctrine. Yet it is a fair question whether truth has been more harmed by those who are wrong but happy (if there are any such) than by those who are right but unhappy.

quently persons of great faith, many members who have dragged themselves barely to the edge of a creed; what such persons transmit is hardly that creed, but a pestilential belief in the moral painfulness of one's intellectual duty.

But given the believer, the more vigorous and affirmative his belief, the better. Life becomes worth living according to the greatness of faith, not the lack of it. If any element of a great faith proves wrong, its greatness survives as a standard to be reached by what displaces it. According to this measure will be the dimension of the wills we develop.

But beside the dimension of the will, the proportion of the will is also a matter of importance; and to this end it is the business of education to see that none of the more general instincts or groups of instincts have an inadequate exposure.

There is in the human being, as we saw, a large power of substitution among the instincts, and this power increases as the central current of the will grows strong. Hence as children get older it becomes less and less important that all the possible 'units of behavior' should be proportionately called forth. It is a pity, to be sure, if the climbing period goes by without a fair exposure to trees, fences, staircases, shed roofs, and the like; but the loss is not irremediable. If however any of the more general instincts lies long latent, as in the case of a delay in the use of language which might retard the development of sociability, the loss is more serious. Let me speak of some of the questions of proportion which present conditions of life more especially raise.

A fair balance ought to be kept between the instincts that deal with persons and those that deal with things. The small arts developed by handling, exploring, controlling, making, and owning things must furnish all the themes for the give-and-take of primitive sociability: only through the administering of such all-important privileges as those of 'hollering down our rain bar'l' or 'climbing our apple tree' can the various shades of amity and hostility be realized. The child's social life will run shallow unless his physical interests are vigorous. It is true that the deeper his roots strike into the material world and its mastery, the more occasion there is for pugnacity, the more difficult the personal problems aroused; but also, the more significant the solutions when they come. It is a mistake to try to impose a pre-

mature altruism upon these concerns in mine and thine. The two sets of impulses, competitive and non-competitive, must grow side by side and to some extent independently before they are ready to recognize their relationship. Meantime, the instincts occupied with things indicate by their strength the degree of mastery over nature we are destined to; and the qualities developed in their exercise are the most primitive elements of 'character' and the foundation of all likeableness.<sup>1</sup> Thus what these instincts seem to take from social quality, they pay back again.

But between the possessive and masterful interest in things and the friendly interest in persons there is a middle term, most important in the proportioning of the will. I mean a companionable interest in nature. Being 'alone' has possibilities of occupation that come not merely from hands and senses but from thought and fancy. A child's fear of solitude is an evidence that his imagination has already begun to work in this direction; and what is needed in order to reassure him is not that nature should be depersonalized, but that his instinctive personifying trait should be made a resource. The growing self, if it is to acquire depth, has need of a region not intruded upon by other human personalities, not even by such as move across the stage of history and literature. While he is in this human company the initiative of his own thoughts is perpetually broken: the impulses of mental play, as sensitive as they are precious, may easily be discouraged and weakened unless an environment is found which is at once an escape and a stimulus. Our over-socialized city-bred children often lose the capacity to be 'by themselves' without intolerable tedium. Normally, however, 'nature' means much more than permission to ruminate: it is a positive educating force. For nature appears to humanity everywhere, and early to children, as (more or less cheerfully) enigmatic: it is deceptively quiescent, or it is eventful but with invisible agency; it teases out essays in interpretation. Society drives away the muse,—it 'amuses' us: but in the presence of nature

<sup>1</sup> What attracts us in another, old or young, is always the sign not of animal vitality primarily but of validity, the quality of spirit which is challenged and evoked in the elementary struggles with the inertia and refractoriness of physical things: resourcefulness, persistence, grit, integrity, fertility of design. Power over nature is the most summary expression of what a spirit ought to have, and does have in proportion to its degree of reality: it is this degree of reality which we most immediately perceive in another, and which is the foundation of likeableness.



the thread of our fancies is drawn at once into the living fabric of the world, making connection in the freest, and I believe not untruest way, with the spirit that dwells there. Thus the foundations are being laid for a thoughtfulness more than literal in its quality, which may ripen in one direction into scientific observation and hypothesis, in another toward merging with the poetic and animistic gropings of the race.<sup>1</sup> In any case, since the imagination is actively, not passively engaged, and the mental furniture is one's own, one returns to his social world a little more than before a self. An individual 'I-think' is growing which in time may have its own contribution to the 'We-think' of the crowd.

But whether we thus deal with the 'I-think,' or as above with the 'I-own,' it is clear that we are at the same time dealing with the 'I-can.' The will to power, because of its central position, is being educated in all education. But this fact does not imply that the will to power needs no distinct attention. It has its own technique to acquire, and its own interpretation to find: and everything in the child's further career depends on how these problems are solved. Like all the more particular forms of instinct the will to power needs to be developed by deliberate exposure to its own kind of stimulus,—difficulty, and to its own type of good,—success.

Play, we have said, may be regarded as practice in success. The play obstacles are so chosen as to be surmountable; the play-things

<sup>1</sup>In making this plea for the encouragement of an anthropomorphic imagination, I am shamelessly favoring what Professor Thorstein Veblen has called the "self-contamination of the sense of workmanship" (*The Instinct of Workmanship*, pp. 52 ff.), a deliberate mixing of the personal and impersonal phases of the world which it may prove difficult later on to resolve into a wholly naturalistic deadness of attitude toward the physical. I do so with my eyes open.

What and how much solitude may mean to any child cannot be told in advance: education can only effect the exposure, not at first without guidance, and certainly not without noting results.

Let me quote from a letter written by Sir Rabindranath Tagore to Mr. Frederic Rose, Stockton Heath, England. "Mornings and evenings (speaking of his school in Bolpur) fifteen minutes' time is given them to sit in an open space, composing their minds for worship. We never watch them and ask questions about what they think in those times, but leave it entirely to themselves, to the spirit of the place and the time and the suggestion of the practice itself. We rely more upon the subconscious influence of Nature, of the association of the place and the daily life of worship that we live than on any conscious effort to teach them." The same principle in a different mood is found in John Boyle O'Reilly's poem "At School."

oppose no ultimate resistance to their owner. But that which seems the opposite of play, the set task, is needful to provide the complete stimulus for this instinct. We need not open the old debate whether the will is best trained through what one spontaneously likes or is 'interested' in or through the opposite. Kant and William James are far apart on many matters; but in this they seem to agree, that for the sake of habitual freedom from the domination of feelings it is well to do voluntarily a certain amount of what is hard or distasteful. But I presume that they would equally agree that there is little value in effort for effort's sake: there is as little to be gained from pure difficulty as from pure ease. The right stimulus for any instinct is 'the perception of the goal as the meaning of the beginning':<sup>1</sup> the right stimulus of the will to power is the glimmer of a possible success, which is another name for hope. The only significant difficulties, for purposes of education, are those accompanied by hope. It is thus as idle a procedure to exhort the child halted by an obstacle to "work it out for himself" as it is to do the work for him: there is no more dehumanizing state of mind than the perpetuation of directionless effort in a despairful mood. Education in such a case consists in supplying the halted mind with a method of work and some examples of success. There are few more beautiful miracles than that which can be wrought by leading a despairing child into a trifling success: and there are few difficulties whose principle cannot be embodied in such simple form that success is at once easy and revealing. And by increasing the difficulty by serial stages, the small will, under the cumulative excitement of repeated and mounting success, may find itself far beyond the obstacle that originally checked it.

Such use of mental momentum is a practice which I believe all instinctive teachers resort to. And it shows incidentally how false a guide 'interest' may be in education when taken as we find it. Lack of interest in any subject depends, for children, far less on the nature of the subject than on a persistent thwarting of the will to power in dealing with it; interest accompanies any task in which a mental momentum is established. But momentum can be gained only when difficulty can be indefinitely increased, so that the very conditions which may discourage, drive away interest, and even induce loathing of a subject, are conditions which make great interest possible when

<sup>1</sup>Hocking, *Human Nature and its Remaking*, p. 42.

the will to power is called into lively action. We may put it down as a maxim of education, so far as interest is concerned,—Without difficulty, no lasting interest.

But after the education derived from play, and from the set task with its relatively prompt conclusion, the will to power has still to learn to deal with the situation of indefinite delay. If it is hard to point out what instinctive satisfaction can be found in a deferred success, it would be hazardous to assert that there is no such satisfaction, when we consider that the greatest of human ends are such as are never finally achieved. The imagination, the 'I-think,' would be cramped in any house narrower than infinity; and it is through them that the will to power can be led to its next stage of development. By the aid of imagination I can count it a success to have made a definable approach to a distant end; and thus increasingly long series of means that lie between initial effort and attainment can take on the meaning of continuous successes. If our view of the State is right,<sup>1</sup> it is only as we become capable of taking an interest in permanent and cumulative objects that the will to power can subordinate its competitive to a non-competitive character and so become thoroughly social. And it must be seasoned to delay, before the problems with which adolescence confronts instinct can be even fairly well met.

The strain upon instinct at adolescence is due largely to the delay imposed on the impulses of acquisition and sex. The vigorous ways of primitive food-getting and property-getting have to recognize their transformed selves, if they can, in the devious routine of labor and exchange. The sex-interest, under any set of customs so far proposed, must learn to express itself for a time in partial and sublimated forms. The circumstance that children usually grow up in families is nature's simple and effective device for imposing on the powerful current of sex-feeling its presumptive meaning: every child starts life with a prejudice to the effect that its affections will lead it sooner or later to found a family resembling (with improvements) the family from which it came. But when sex-interest becomes a practical personal impulse it outruns the restricted possibilities of family-founding; it meets on every hand the unexplained check, the unexplained inner compunction quite as much as the unexplained social ruling. Inhibition and prohibition alike mean delay; and the

<sup>1</sup> Hocking, *Human Nature and its Remaking*, p. 205.



tendency of all delay is to cast the energies of impulse upward into the region of dream, romance, speculation, substitution.

Here the will to power should provide the great natural resource; and will do so if it has been linked with imagination. Delay becomes supportable if imagination gives the 'prolonged vestibule'<sup>1</sup> the shape of a conscious plan, with the many possible successes of approach: and for the acquisitive impulses this may at least ease the situation. But delay becomes more than tolerable, it becomes significant, if it affords leeway for the creation of the plan itself, enlisting the inexhaustible plan-making impulses of the youthful brain. Here the possibilities of the imaginative will to power are so great that it may assume an actual equivalence for the satisfaction of other instincts; and in particular the creative element in the sex-impulse may be largely absorbed or 'sublimated' in the new preoccupation.

For at adolescence there is at least one such task of creation which the will cannot escape, that of constructing one's philosophy. The youth finds himself, at his own estimate, for the first time an equal among equals. There is a change in the order of authority. Children have an appetite for authority corresponding to their mental unfinishedness and rapid growth; with adolescence comes a sense of competence and a disposition to be critical. The conceit of opinion in the adolescent is not empty: it is based on a readiness to assume responsibility, and on an actual assumption of responsibility in the work of mental world-building if not of physical world-building. He appreciates for the first time that he has his own life to lead; he finds himself morally alone; he can no longer endure to see things through the eyes of others.

In dealing with this readiness to assume responsibility and with its accompanying conceit—the 'instinct of self-assertion' as it is called by McDougall and others—we commit some of our most serious educational blunders. We customarily put the boy into continued schooling where his powers of serious action beat the air, and we rebuke his conceit by external pressure: the first wrong brings the second after it. Continued schooling is inevitable and not necessarily unnatural; but the only fair corrective for the conceit, or rather the only right environment for this new development of instinct, is the actual responsibility it craves. Our school days and years have their

<sup>1</sup>Hocking, *ibid.* p. 178.



intervals; and those intervals should be, at least in part, intervals of earning a living. The boy who passes his adolescence without knowing the feeling of doing a day's work for a day's wages is risking not only a warp in his instinctive make-up, but a shallowing of all further work in school and college, because of a loss of contact with this angle of reality at the moment when his will was ripe for it. The mental helplessness of many students who cumber the colleges of this and other lands, the dispositional snobbery and self-saving of many an over-confident and over-sexed youth sent out as 'educated' to justify once more the spirit of rebellion against the mental and moral incompetence of those who assume to lead and govern, has much of its explanation in our failure at this point. The marvel is not that such misshapen births occur; the marvel is that young human nature shows such magnificent self-righting qualities when its will to power is once thoroughly engaged.

But whether or not the concrete responsibility he craves is permitted him, the responsibility for mental world-building cannot be refused the adolescent, and he will take it. This is the natural moment for tearing down and rebuilding the beliefs absorbed during the era of his subordination to authority. Youth is metaphysical not because metaphysics is a youthful malady but because youth has metaphysical work to do; it has been attached to the universe through the mental veins of its authorities; now it must win an attachment of its own. The old structure of belief will not be wholly abandoned,—it may not be so much as altered; but it must be hypothetically abandoned, surveyed from outside largely by the aid of the materials furnished the imagination in early years, the young Greek, the young Utopian we have implanted in the young modern. That to which one returns is then no longer another's, but one's own. Originality is not measured by the amount of change, but by the depth of this re-thinking.

It is originality of this sort, another name for 'individuality,' which is chiefly at stake during adolescence. If the will to power cannot take this metaphysical direction, individuality will be curtailed in its growth. If self-assertion takes the form of rebellion against restraint of sex-impulse, individuality will be the loser not the gainer. For sex-expression is the merging of the individual in the currents of the genus; and early sex-expression signs away just the last and highest reaches of individual development. It ensures mediocrity, and by a

curious paradox, conventionality of mind: nothing is so uninventive as ordinary sex-rebellion. Only deferment and sublimation can carry individual self-consciousness to its own.<sup>1</sup>

If the instinctive life of adolescence is to be dominated by the will to power in the form of creative thinking, the impulse and power to think must be well grown; whereas originality of this sort is the rarest product of our education. The abundant will of childish curiosity which should now be brimming into the channel of explorative thought, we are commonly compelled to see running dry. Is it necessary to stand helpless before this serious failure of the attempt to educate?

The difficulty does not lie primarily in the fact that explorative thought is the most arduous way of meeting life, whether for educator or educated. It is certainly much simpler for both sides to accept classified solutions for classified situations, after the fashion of the manuals of casuistry, than to discount every actual hypothesis in favor of a possibly better one. But the difficulty is that with the best of will, the power of explorative thinking cannot be taught by direct effort. In attempting to communicate it, what we pass on is a solution, never the mental process that reached it. In our laboratories we undertake to teach scientific method, the method by which Galileo and his successors made their discoveries; but our typical product still lacks something that was in Galileo. Mr. Bernard Shaw has revealed to mankind the secret of Rodin's art; yet no one takes Rodin's place. The attempt to transmit originality, and the attempt to transmit tradition are in the same case: if with the tradition could be given the power that created it, tradition would have few enemies. Imitation never quite imitates; education never educes the most vital power. Platonism produces no other Plato: Christianity yields no other Jesus nor Paul. If instead of trying to conserve itself, every society and every tradition put out all its efforts to make new proph-

<sup>1</sup>There is a similar loss through hasty self-assertion in the direction of the acquisitive instincts. To win the early attention of the market it is necessary to offer something new. Novelty is a natural product of thought; but premature gathering of this crop has a biological reaction on the root. The normal source of the new is not direct attention to the new, but attention to the real; the novelty that comes as a result of the painful quest for novelty will prove in the end to be a mere variation of a conventional pattern, like the scenarios of our movies, and so in time to pall by its tawdry repetition.

ets, new iconoclasts, it would still find itself conserving the husk, unless the spring of that unteachable power can be touched.

It is here that we realize most keenly that education in the last analysis must be on the part of the educator a study of self-elimination. It has throughout a paradoxical character. In those beginnings of independent thought which we found in the 'companionable interest in nature,' the art of exposure involved the withdrawal of society by society, a self-effacement which must gradually become complete. It is the moments of loneliness that are critical for the spontaneity of the mind; and they can be to some extent procured for the growing self by increasing the opportunities for learning through one's own mistakes, through experiments in opposition, and through attempts at the solitary occupation of leadership.

But self-eliminating is not a purely negative process; for explorative thought has never been a purely disconnected fact in the universe: it has had its sources, and the last rite of the self-eliminating art would be to point out those sources so far as we know them. We may at least conduct our youth to the farthest point on our own horizon, to the point from which all that is tentative is seen as tentative, all that is small as small, all that is human as merely human. "For each man," we may say to them, "there is a region of consciousness more nearly just and free than others, looking out toward absolute truth, if not seeing it. In all ages men have sought out this region, and have found there a promise of freedom from all residual tyrannies of custom and education; and from this source innovations without number have made their way into social life. What men have called their religion has been the inertia-breaking, bond-breaking power, the mother of much explorative thought. It has at times exercised a tyranny of its own, and this is the most hideous of tyrannies because it invades the region of most intimate freedom. But from it has come the power for breaking these same shackles. There you may find or recover the vision which nullifies all imposture of the Established, the Entrenched, of all the self-satisfied Toryisms, Capitalisms, Obscurantisms of the world. And there you may find what is not less necessary for originality: unity in the midst of distraction, composure in the midst of necessary and unnecessary flux, quiet confidence in your own eyesight in presence of the Newest, the Noisiest, the Scientificaest, the Blatantest, all the brow-beating expositions of

pseudo-Originality, pseudo-Progress. Your need is not for novelty for its own sake, but for truth: out of your personal relation to truth comes all the novelty that can serve you, or mankind through you. This personal relation to truth you must win for yourself; but you may be left with good hope to win it, for truth is no dead thing, but is itself a spirit."

Society, I dare say, has never been wholly false to this self-displacing conception of education: even its most hide-bound orthodoxies have produced characters capable of social and political resistance, revolution if need be. And the modes of conduct which it has attempted to transmit have been derived seldom from a direct study of its own welfare, chiefly from its own view of the dictates of this more absolute consciousness.

For this reason, in our own study of society we have given little attention to specific transformations of instinct. If anything is discoverable more adequate and final than a given stage of social transformation, it is that which social education reaches toward, and which alone can concern us, even as social beings.<sup>1</sup>

## 25. EQUALITY OF OPPORTUNITY<sup>2</sup>

A man's power is due (1) to physical heredity; (2) to social heredity, including care, education, and the stock of inventions, information, and institutions which enables him to be more efficient than the savage; and finally (3) to his own efforts. Individualism may properly claim this third factor. It is just to treat men unequally so far as their efforts are unequal. It is socially desirable to give as much incentive as possible to the full development of every one's powers. But the very same reason demands that in the first two respects we treat men as equally as possible. For it is for the good of the social body to get the most out of its members, and it can get the most out of them only by giving them the best start possible. In physical heredity the greater part is, as yet, wholly outside control, but there is an important factor which is in the sphere of moral action, namely, the physical condition of the parents, particularly of the mother. Conditions of food, labor, and housing should be such that every child may

<sup>1</sup> In chapters xxxi and xxxii of *Human Nature and its Remaking*, Hocking deals with the problems of the rebel and the criminal.—Ed.

<sup>2</sup> Dewey and Tufts, *Ethics*, pp. 548-550. Compare with earlier citations.—Ed.



be physically well born. In the various elements included under social heredity society has a freer hand. Not a free hand, for physical and mental incapacity limit the amount of social accumulation which can be communicated, but we are only beginning to appreciate how much of the deficiency formerly acquiesced in as hopeless may be prevented or remedied by proper food, hygiene, and medical care. Completely equal education, likewise, cannot be given; not in kind, for not all children have like interests and society does not want to train all for the same task; nor in quantity, for some will have neither the ability nor the disposition to do the more advanced work. But as, little by little, labor becomes in larger degree scientific, the ratio of opportunities for better trained men will increase, and as education becomes less exclusively academic, and more an active preparation for all kinds of work, the interests of larger and larger numbers of children will be awakened. Such a programme as this is one of the meanings of the phrase "equal opportunity," which voices the demand widely felt for some larger conception of economic and social justice than now obtains. It would make formal freedom, formal "equality" before the law, less an empty mockery by giving to every child some of the power and knowledge which are the necessary conditions of real freedom.

Society has already gone a long way along the line of giving an equal share in education. It is moving rapidly toward broader conceptions of education for all occupations—farming, mechanics, arts, trade, business—as well as for the "learned professions." It is making a beginning toward giving children (see the Report of the New York Tenement House Commission) a chance to be born and grow up with at least a living minimum of light and air. Libraries and dispensaries and public health officials are bringing the science and literature of the world in increasing measure into the lives of all. When by the better organization of the courts the poor man has real, and not merely formal equality before the law, and thereby justice itself is made more accessible to all, another long step will be taken toward a juster order. How far society can go is yet to be solved. But is it not at least a working hypothesis for experiment, that society should try to give to all its members the gains due to the social progress of the past? How far the maxim of equal opportunity will logically lead it is impossible to say. Fortunately, the moral problem is to work out new ideals, not merely to administer old ones.

26. HEALTH AS THE BASIS OF CHARACTER<sup>1</sup>

It is not necessary here to attempt to do justice to all the great natural influences which act upon temperament, instinct, and habit. Climate, for example, and geographical conditions, the succession, the rigour, the mildness of the seasons, the relative length of day and night—these all profoundly modify man's life and development. But, for the most part, we must take them as we find them. They are not within control, and in a practical enquiry like the present, it is enough to bear in mind that such influences operate; and to pass on.<sup>2</sup>

It is very different however when we turn to the conditions of bodily health. Hygiene and therapeutics prove them to be emphatically within control, indeed they are so generally considered to be so that persons not a few live for little else. As to the manner and limits of such control, it is for writers upon Hygiene to speak. It must suffice here, touching but cursorily on a large subject, to specify some general aspects in which moral development is conspicuously conditioned by physical health.

(1) This is so, in its most obvious aspect, because good health is a prime condition of practical energy. For energetic constitutions enjoy an advantage that goes far beyond the mere superior ability to do what others cannot. This may give them their political or economic value. But, ethically, the gain lies in the fact that it is by energetic action that men make themselves. They do this when by their actions they form the corresponding habits: but they do it even more, because it is substantially through action far more than through instruction that they come to identify their lives with diverse social ends and interests. Thus Spinoza's almost fierce denunciation of ascetic contempt for the body turns upon the conviction that the well-nurtured body is the organ of all true development, because it brings its possessor into varied practical relations with experience. On his view to macerate the body is thus to starve the soul.<sup>3</sup> Hence too the wisdom of the

<sup>1</sup>From *The Making of Character* (pp. 54-60), by John MacCunn, M.A., LL.D., Professor of Philosophy in University College, Liverpool. The University Press, Cambridge, England, 1900. Copyright, 1900, by The Macmillan Company, New York. Reprinted by permission.

<sup>2</sup>For fuller treatment of these compare Lotze, *Mikrokosmos*, Book VI, chap. ii.

<sup>3</sup>*Ethics*, Part IV, Prop. XLV, Scholium, with which compare Props. XXXVIII and XXXIX.

Carlylian dictum that, if any man would ever know "that poor Self of his," the first step is to find his work and to do it. Otherwise he will never realise a self that is worth the knowing.

So, conversely, with lack of energy. Idleness, says proverbial wisdom, comes to want. But its worst want is not the empty purse: it is the soul atrophied for lack of the spiritual wages that never fail the strenuous life. What holds of idleness holds likewise of physical languor and weakness. We may not impute these as a sin, thereby "beating the cripple with his own crutches"; yet we must just as little refuse to face the fact that a weak or sickly body is a grievous moral disability, in so far as by narrowing the range of contact with life it stunts the character.

(2) Similarly when we turn to moral endurance. Thus, when some trial falls upon anyone we love, one of the best things to wish for him is good health and well-strung nerves. And this, not for the obvious reason that he will then not break down in health nor yet for the less materialistic reason that he can always find a manly anodyne in intense and absorbing physical exertion, but for the better reason still that physical strength minimises the risk, never absent when the wheels of vital being run slow, that trial and shock may cut short the life, even of a brave spirit, before the virtues of endurance have had time for their maturing. Hence the folly of indulging the natural recklessness of bodily health in the dark days of trial. Well has Rousseau said that the weaker the body is the more it commands. It commands in the hour when we cannot face our willing work, or when we wince like cowards under demands that shake the unstrung nerves, or when it makes us, in spite of resolutions, morbid, irritable, wrong-headed in our estimates of men and things. And, as the same counsellor adds, it is the strong body that obeys. For the body will be best subjugated, not by hair-shirt or scourge or any other of the like devices which too often thrust the physical life into prominence in the very effort to repress it, but by enlisting the fulness of manly strength in the service of some cause or person, which will tax it to the uttermost. Hence the strength of the ethical argument for physical education. If we are apt to have misgivings about the long hours and days given in boyhood and youth to the strenuous idleness of sports and games, we must not think too exclusively of the immediate results. We must think of the heavy drafts which arduous vocations make in after years on

bodily vigour and endurance, of the habitual cheerfulness that follows health, and not least of that sense of insurance against whatever the future can bring which comes of the consciousness of calculable physical fitness. Plato startles us in his educational ideal by assigning two and a half of the most precious years of life to the exclusive pursuit of "gymnastic."<sup>1</sup> If it seem a costly tribute to the body, it is to be borne in mind that it is prompted by the principle "Body for the sake of Soul," and finds its justification in the strenuous service to be exacted by the State of its citizens in later years.

(3) Add to this that bodily health is also a condition of all soundness of practical judgment. The best of health will not of course ensure wisdom. Not all wise men are robust, nor are all robust men wise. Yet the connexion is intimate.

Spontaneous wisdom breathed by health,  
Truth breathed by cheerfulness,

says Wordsworth,<sup>2</sup> in a familiar couplet whose full significance is perhaps not always understood. For though health and cheerfulness may not bring wisdom, they afford securities against unwisdom in some of its most familiar forms. For our errors of judgment are not due merely, or even mainly, to positive blindness to the conditions involved. They come rather from a distorted emphasis, a false perspective in regard to conditions that are well within our horizon. We realise this when we come to ourselves. "How could I have thought it? How could I have said it?"—this is what we say when we regain our balance—that balance that is so hopelessly upset when our nerves are shaken, and our sensibilities morbid. For, by subtle organic influence, the morbid state of body dulls a susceptibility here, and exaggerates a susceptibility there, till we lose, and often know we lose, the power of seeing things as they really are, and as they come to be seen by ourselves when health returns. Nor can it be denied that even the salt of the earth may thus on occasion be betrayed, by nothing more dignified than physical exhaustion or irritability, into judgments peevish, uncharitable, precipitate; and thereby put to the blush by their worldly neighbours in whom the placid good health that goes with an easy-going life has kept the balance true.

<sup>1</sup> Between 17 and 20—just the time most valuable for forming intellectual tastes and habits. Compare *Republic*.

<sup>2</sup> "The Tables Turned."



Hence the futility of attempting to argue a victim of Hypochondria into a healthy view of life. He may listen to us and, after a fashion, understand us. For our words are his words. But the facts as they image themselves in our minds are not the facts as imaged in his. This is the gravest injury that weak or shattered nerves can inflict upon us. Pain, exhaustion, even forced inactivity, are lesser evils. For this clouding of the judgment troubles what, in adult years, is the very well-head of moral action. Sometimes, no doubt, there are compensations here. Persons of weak health are often anxious, and anxiety begets foresight; and thus, by habitual foresight, they may safeguard themselves against mistakes. Yet this is at best a poor substitute for the even-balanced healthy outlook that goes so far to keep the judgment sound. Better to render such compensations unnecessary by setting to work betimes to secure the healthy body, remembering that, in all treatment of a composite being like man, the most powerful moralising influences are not always those that are directly moral.

Yet we must not press these truths unduly. Though Dr. Johnson once declared that illness makes a man a scoundrel, the retort is that illness, and indeed all bodily weakness, may become strength when seized as a spiritual opportunity. There have been men—Erasmus, Montaigne, Heine—who, with a levity more touching than fortitude, made humorous capital out of their own diseases and sufferings, in a fashion which puts the Johnsonian dictum to confusion. Nor could mankind, in presence of all the slings and arrows of disease and decay, afford to surrender even one of those consolations which have taught physical weakness the secret of moral strength. Physical suffering can beget its own virtues, of which fortitude is one. A weak body is, sometimes at any rate, the condition of a deeper and a more refined moral insight; and though long-continued delicacy of constitution is only too prone to the pitfall of a valetudinarianism that is fatally self-centred, it may sometimes induce a discerning sympathy with the sorrows of others which robust and bustling persons do not always feel.

Yet when all is said such things are still of the nature of compensations. They do not touch the central fact that he who would form a well-developed character must stand far aloof from the ascetic superstition, rooted in a false psychology, that the death of Body is the life of Soul.

There is no materialism in this. It is the reverse of materialism to believe that the moral life is not so resourceless as to be unable to find sufficiently high service for the body at its best. Spinoza makes the pregnant remark that we do not know what Body is capable of.<sup>1</sup> We may go a step further and, following Aristotle, declare that we shall never know, till Body finds its true function as instrument of fully developed Soul. For materialism consists, not in frankest recognition of matter, but in the assignment to it of a spurious supremacy or independence. There can be no materialism in utmost emphasis upon physical education, so long as "Body for the sake of Soul" is, as it was with Plato, the presiding principle of educational action.

## 27. THE TRAINING OF HABIT<sup>2</sup>

*Ethical and pedagogical importance of the principle of habit.*<sup>3</sup> "Habit a second nature! Habit is ten times nature," the Duke of Wellington is said to have exclaimed; and the degree to which this is true no one probably can appreciate as well as one who is a veteran soldier himself. The daily drill and the years of discipline end by fashioning a man completely over again, as to most of the possibilities of his conduct.

<sup>1</sup> *Ethics*, Part III, Prop. II, Scholium, "For what the Body can do no one has hitherto determined."

<sup>2</sup> From *Psychology: Briefer Course* (pp. 142-150), by William James, formerly Professor of Psychology in Harvard University. Copyright, 1892, by Henry Holt and Company, New York.

<sup>3</sup> J. H. Muirhead writes: "There is the distinction between the so-called natural tendencies and inherited characteristics, such as quick temper or indolent disposition, which are the raw material of moral training, and these same as elaborated and systematised by will and intelligence in that peculiar mode which we call character. The former, as isolated elements of character, may in a sense be said to be 'given,' and to be independent of will; though, as a matter of fact, they never come before us in a being whose conduct may be made the object of moral judgment, except in a form which they owe to the reaction of will and intelligence upon them. Character, on the other hand, is the acquired habit of regulating these tendencies in a certain manner, in relation to consciously conceived ends. In other words, character is not something separate from will and acting upon it from without, but is the habitual mode in which will regulates that system of impulses and desires which, looked at subjectively, is the field of its exercise. Hence character has been defined as a 'habit of will.' J. S. Mill calls character 'a completely fashioned will.'"—**ED.**

"There is a story," says Professor Huxley, "which is credible enough, though it may not be true, of a practical joker who, seeing a discharged veteran carrying home his dinner, suddenly called out, 'Attention!' whereupon the man instantly brought his hands down, and lost his mutton and potatoes in the gutter. The drill had been thorough, and its effects had become embodied in the man's nervous structure."

Riderless cavalry-horses, at many a battle, have been seen to come together and go through their customary evolutions at the sound of the bugle-call. Most domestic beasts seem machines almost pure and simple, undoubtingly, unhesitatingly doing from minute to minute the duties they have been taught, and giving no sign that the possibility of an alternative ever suggests itself to their mind. Men grown old in prison have asked to be readmitted after being once set free. In a railroad accident a menagerie-tiger, whose cage had broken open, is said to have emerged, but presently crept back again, as if too much bewildered by his new responsibilities, so that he was without difficulty secured.

Habit is thus the enormous fly-wheel of society, its most precious conservative agent. It alone is what keeps us all within the bounds of ordinance, and saves the children of fortune from the envious uprisings of the poor. It alone prevents the hardest and most repulsive walks of life from being deserted by those brought up to tread therein. It keeps the fisherman and the deck-hand at sea through the winter; it holds the miner in his darkness, and nails the countryman to his log-cabin and his lonely farm through all the months of snow; it protects us from invasion by the natives of the desert and the frozen zone. It dooms us all to fight out the battle of life upon the lines of our nurture or our early choice, and to make the best of a pursuit that disagrees, because there is no other for which we are fitted, and it is too late to begin again. It keeps different social strata from mixing. Already at the age of twenty-five you see the professional mannerism settling down on the young commercial traveller, on the young doctor, on the young minister, on the young counsellor-at-law. You see the little lines of cleavage running through the character, the tricks of thought, the prejudices, the ways of the 'shop,' in a word, from which the man can by-and-by no more escape than his coat-sleeve can suddenly fall into a new set of folds. On the whole, it is best he should not escape. It is well for the world that in most of us, by the age of thirty, the character has set like plaster, and will never soften again.

If the period between twenty and thirty is the critical one in the formation of intellectual and professional habits, the period below twenty is more important still for the fixing of personal habits, properly so called, such as vocalization and pronunciation, gesture, motion, and address. Hardly ever is a language learned after twenty spoken without a foreign accent; hardly ever can a youth transferred to the society of his betters unlearn the nasality and other vices of speech bred in him by the associations of his growing years. Hardly ever, indeed, no matter how much money there be in his pocket, can he even learn to dress like a gentleman-born. The merchants offer their wares as eagerly to him as to the veriest 'swell,' but he simply cannot buy the right things. An invisible law, as strong as gravitation, keeps him within his orbit, arrayed this year as he was the last; and how his better-clad acquaintances contrive to get the things they wear will be for him a mystery till his dying day.

The great thing, then, in all education, is to make our nervous system our ally instead of our enemy. It is to fund and capitalize our acquisitions, and live at ease upon the interest of the fund. For this we must make automatic and habitual, as early as possible, as many useful actions as we can, and guard against the growing into ways that are likely to be disadvantageous to us, as we should guard against the plague. The more of the details of our daily life we can hand over to the effortless custody of automatism, the more our higher powers of mind will be set free for their own proper work. There is no more miserable human being than one in whom nothing is habitual but indecision, and for whom the lighting of every cigar, the drinking of every cup, the time of rising and going to bed every day, and the beginning of every bit of work, are subjects of express volitional deliberation. Full half the time of such a man goes to the deciding, or regretting, of matters which ought to be so ingrained in him as practically not to exist for his consciousness at all. If there be such daily duties not yet ingrained in any one of my readers, let him begin this very hour to set the matter right.

In Professor Bain's chapter on "The Moral Habits" there are some admirable practical remarks laid down. Two great maxims emerge from his treatment. The first is that in the acquisition of a new habit, or the leaving off of an old one, we must take care to launch ourselves with as strong and decided an initiative as possible. Accumulate all



the possible circumstances which shall re-enforce the right motives; put yourself assiduously in conditions that encourage the new way; make engagements incompatible with the old; take a public pledge, if the case allows; in short, envelop your resolution with every aid you know. This will give your new beginning such a momentum that the temptation to break down will not occur as soon as it otherwise might; and every day during which a breakdown is postponed adds to the chances of its not occurring at all.

The second maxim is: Never suffer an exception to occur till the new habit is securely rooted in your life. Each lapse is like the letting fall of a ball of string which one is carefully winding up; a single slip undoes more than a great many turns will wind again. Continuity of training is the great means of making the nervous system act infallibly right. As Professor Bain says:

The peculiarity of the moral habits, contradistinguishing them from the intellectual acquisitions, is the presence of two hostile powers, one to be gradually raised into the ascendant over the other. It is necessary, above all things, in such a situation, never to lose a battle. Every gain on the wrong side undoes the effect of many conquests on the right. The essential precaution, therefore, is so to regulate the two opposing powers that the one may have a series of uninterrupted successes, until repetition has fortified it to such a degree as to enable it to cope with the opposition, under any circumstances. This is the theoretically best career of mental progress.

The need of securing success at the outset is imperative. Failure at first is apt to damp the energy of all future attempts, whereas past experiences of success nerve one to future vigor. Goethe says to a man who consulted him about an enterprise but mistrusted his own powers: "Ach! you need only blow on your hands!" And the remark illustrates the effect on Goethe's spirits of his own habitually successful career.

The question of "tapering-off," in abandoning such habits as drink and opium-indulgence comes in here, and is a question about which experts differ within certain limits, and in regard to what may be best for an individual case. In the main, however, all expert opinion would agree that abrupt acquisition of the new habit is the best way, if there be a real possibility of carrying it out. We must be careful not to give the will so stiff a task as to insure its defeat at the very outset; but, provided one can stand it, a sharp period of suffering, and then

a free time, is the best thing to aim at, whether in giving up a habit like that of opium, or in simply changing one's hours of rising or of work. It is surprising how soon a desire will die of inanition if it be never fed.

One must first learn, unmoved, looking neither to the right nor left, to walk firmly on the strait and narrow path, before one can begin "to make one's self over again." He who every day makes a fresh resolve is like one who, arriving at the edge of the ditch he is to leap, forever stops and returns for a fresh run. Without unbroken advance there is no such thing as accumulation of the ethical forces possible, and to make this possible, and to exercise us and habituate us in it, is the sovereign blessing of regular work.<sup>1</sup>

A third maxim may be added to the preceding pair: Seize the very first possible opportunity to act on every resolution you make, and on every emotional prompting you may experience in the direction of the habits you aspire to gain. It is not in the moment of their forming, but in the moment of their producing motor effects, that resolves and aspirations communicate the new 'set' to the brain. As the author last quoted remarks:

The actual presence of the practical opportunity alone furnishes the fulcrum upon which the lever can rest, by means of which the moral will may multiply its strength, and raise itself aloft. He who has no solid ground to press against will never get beyond the stage of empty gesture-making.

No matter how full a reservoir of maxims one may possess, and no matter how good one's sentiments may be, if one have not taken advantage of every concrete opportunity to act, one's character may remain entirely unaffected for the better. With mere good intentions, hell is proverbially paved. And this is an obvious consequence of the principles we have laid down. A 'character,' as J. S. Mill says, 'is a completely fashioned will'; and a will, in the sense in which he means it, is an aggregate of tendencies to act in a firm and prompt and definite way upon all the principal emergencies of life. A tendency to act only becomes effectively ingrained in us in proportion to the uninterrupted frequency with which the actions actually occur, and the brain 'grows' to their use. When a resolve or a fine glow of feeling is allowed to evaporate without bearing practical fruit it is

<sup>1</sup>J. Bahnsen, *Beiträge zu Charakterologie* (1867), Vol. I, p. 209.

worse than a chance lost; it works so as positively to hinder future resolutions and emotions from taking the normal path of discharge. There is no more contemptible type of human character than that of the nerveless sentimentalist and dreamer, who spends his life in a weltering sea of sensibility and emotion, but who never does a manly concrete deed. Rousseau, inflaming all the mothers of France, by his eloquence, to follow Nature and nurse their babies themselves, while he sends his own children to the foundling hospital, is the classical example of what I mean. But every one of us in his measure, whenever, after glowing for an abstractly formulated Good, he practically ignores some actual case, among the squalid 'other particulars' of which that same Good lurks disguised, treads straight on Rousseau's path. All Goods are disguised by the vulgarity of their concomitants, in this work-a-day world; but woe to him who can only recognize them when he thinks them in their pure and abstract form! The habit of excessive novel-reading and theatre-going will produce true monsters in this line. The weeping of the Russian lady over the fictitious personages in the play, while her coachman is freezing to death on his seat outside, is the sort of thing that everywhere happens on a less glaring scale. Even the habit of excessive indulgence in music, for those who are neither performers themselves nor musically gifted enough to take it in a purely intellectual way, has probably a relaxing effect upon the character. One becomes filled with emotions which habitually pass without prompting to any deed, and so the inertly sentimental condition is kept up. The remedy would be, never to suffer one's self to have an emotion at a concert, without expressing it afterward in some active way. Let the expression be the least thing in the world—speaking genially to one's grandmother, or giving up one's seat in a horse-car, if nothing more heroic offers—but let it not fail to take place.

These latter cases make us aware that it is not simply particular lines of discharge, but also general forms of discharge, that seem to be grooved out by habit in the brain. Just as, if we let our emotions evaporate, they get into a way of evaporating; so there is reason to suppose that if we often flinch from making an effort, before we know it the effort-making capacity will be gone; and that, if we suffer the wandering of our attention, presently it will wander all the time. Attention and effort are, as we shall see later, but two names for the

same psychic fact. To what brain-processes they correspond we do not know. The strongest reason for believing that they do depend on brain-processes at all, and are not pure acts of the spirit, is just this fact, that they seem in some degree subject to the law of habit, which is a material law. As a final practical maxim, relative to these habits of the will, we may, then, offer something like this: Keep the faculty of effort alive in you by a little gratuitous exercise every day. That is, be systematically ascetic or heroic in little unnecessary points, do every day or two something for no other reason than that you would rather not do it, so that when the hour of dire need draws nigh, it may find you not unnerved and untrained to stand the test. Asceticism of this sort is like the insurance which a man pays on his house and goods. The tax does him no good at the time, and possibly may never bring him a return. But if the fire does come, his having paid it will be his salvation from ruin. So with the man who has daily inured himself to habits of concentrated attention, energetic volition, and self-denial in unnecessary things. He will stand like a tower when everything rocks around him, and when his softer fellow-mortals are winnowed like chaff in the blast.

The physiological study of mental conditions is thus the most powerful ally of hortatory ethics. The hell to be endured hereafter, of which theology tells, is no worse than the hell we make for ourselves in this world by habitually fashioning our characters in the wrong way. Could the young but realize how soon they will become mere walking bundles of habits, they would give more heed to their conduct while in the plastic state. We are spinning our own fates, good or evil, and never to be undone. Every smallest stroke of virtue or of vice leaves its never so little scar. The drunken Rip Van Winkle, in Jefferson's play, excuses himself for every fresh dereliction by saying, 'I won't count this time!' Well! he may not count it, and a kind Heaven may not count it; but it is being counted none the less. Down among his nerve-cells and fibres the molecules are counting it, registering and storing it up to be used against him when the next temptation comes. Nothing we ever do is, in strict scientific literalness, wiped out. Of course this has its good side as well as its bad one. As we become permanent drunkards by so many separate drinks, so we become saints in the moral, and authorities and experts in the practical and scientific spheres, by so many separate acts and hours of work.



Let no youth have any anxiety about the upshot of his education, whatever the line of it may be. If he keep faithfully busy each hour of the working day, he may safely leave the final result to itself. He can with perfect certainty count on waking up some fine morning, to find himself one of the competent ones of his generation, in whatever pursuit he may have singled out. Silently, between all the details of his business, the power of judging in all that class of matter will have built itself up within him as a possession that will never pass away. Young people should know this truth in advance. The ignorance of it has probably engendered more discouragement and faint-heartedness in youths embarking on arduous careers than all other causes put together.

## CHAPTER IX

### THE RÔLE OF PRIVATE ACTIVITY

#### 28. CONSTRUCTIVE DEMOCRACY: THE NON-LEGISLATIVE PROGRAM<sup>1</sup>

*How to secure equality of wealth with liberty, without sacrificing anything that we now prize, such as private property, freedom of contract, freedom of initiative, and economic competition. (Parts of the program are arranged in the inverse order of their importance.)*

##### I. LEGISLATIVE PROGRAM

- A. For the redistribution of unearned wealth.
  - 1. Increased taxation of land values.
  - 2. Graduated inheritance tax.
  - 3. Control of monopoly prices.
- B. For the redistribution of human talent.
  - 1. Increasing the supply of the higher or scarcer forms of talent.
    - a. Vocational education, especially for the training of business men.
    - b. Cutting off incomes which support capable men in idleness, thus increasing the supply of active talent, cf., 1, 2, and 3, under A.
  - 2. Decreasing the supply of the lower or more abundant forms of labor power.
    - a. Restriction of immigration.
    - b. Restriction of marriage.
      - (1) Elimination of defectives.
      - (2) Requirement of minimum standard income.
    - c. Minimum wage law.
    - d. Fixing building standards for dwellings.
- C. For the increase of material equipment.
  - 1. Increasing the available supply of land.
  - 2. Increasing the supply of capital.
    - a. Thrift *versus* luxury.    b. Savings institutions.
    - c. Safety of investments.    d. "Blue sky" laws.

<sup>1</sup>From *Essays in Social Justice* (pp. 264-280), by Thomas Nixon Carver, Ph.D., LL.D., Professor of Political Economy in Harvard University. Copyright, 1915, by the Harvard University Press.

## II. NON-LEGISLATIVE PROGRAM

- A. Raising the standard of living among the laboring classes.
  - 1. The function of the advertiser.
  - 2. The educator as the rationalizer of standards.
  - 3. Thrift and the standard of living.
  - 4. Industrial coöperation as a means of business and social education.
- B. Creating sound public opinion and moral standards among the capable, e. g.
  - 1. The ambition of the family builder.
  - 2. The idea
    - a. That leisure is disgraceful;
    - b. That the productive life is the religious and moral life;
    - c. That wealth is a tool rather than a means of gratification;
    - d. That the possession of wealth confers no license for luxury or leisure;
    - e. That government is a means not an end.
  - 3. Professional standards among business men.
- C. The discouraging of vicious and demoralizing developments of public opinion, such as:
  - 1. The cult of incompetence and self-pity.
  - 2. The gospel of covetousness, or the jealousy of success.
  - 3. The emphasizing of rights rather than obligations.
  - 4. The worship of the almighty ballot and the almighty dollar.
  - 5. The idea that a college education should aim to give one a "gentlemanly appreciation" of the ornamental things of life, such as literature, art, golf, and whiskey, rather than to strengthen one for the serious work of life.
  - 6. The idea that the capitalization of verbosity is constructive business.

Let us now proceed to the consideration of a constructive program in harmony with the general laws of economics. This program must be based upon the universal law of proportionality, which is the basis of all sound valuation. Let it be understood with the utmost clearness once and for all, that we can have any degree of equality we want and in the strictest harmony with economic laws if we are willing to pay the price and to pursue a constructive program in harmony with economic laws. Economic laws are not opposed to equality. They do, however, interfere with certain ideas of equality. Gravitation does not prevent aviation; it does, however, make certain systems of aviation impossible, as Darius Green found to his sorrow. Economic laws interfere only with the plans of the Darius Greens of social reform.

It is not only inevitable, but justice requires that any factor of production which is over-supplied in proportion to the other factors which have to be combined with it, shall be poorly paid, whereas any other factor which is under-supplied in proportion to those which have to be combined with it, shall be well paid. There is only one possible way to bring about equality of pay without violating the principle of justice, and that is so to adjust the quantities of the different factors to the need for them that a unit of one factor is just as much needed and just as productive as the unit of any other factor. So long as a man of one kind of training or ability is more needed than another, owing to the scarcity of the ability or training of the one and the abundance of the ability or training of the other, it must follow that the one will be better paid than the other. But if things can be so readjusted as to make a man of one kind of training and ability just as essential as another, so that the community will gain as much by the accession of an additional man of one kind as of another, or lose as much through the secession of one as of another, then, under the automatic operation of economic law, one man will get as much as another in return for his work or his services. A constructive program of social democracy must, therefore, aim finally and ultimately at such a redistribution of human talent as will make it as desirable that one kind should be increased as another, or as undesirable that one kind should be reduced as another.

A program of distributive justice may be divided, however, into two main divisions, the legislative and the non-legislative. Of the two, it is probable that the non-legislative is the more important, but it may be well to consider the legislative program first, because people are at the present time looking to legislation for the relief of their economic wants. The legislative program may be again subdivided into three parts, the first of which is aimed at the elimination of unearned wealth or the securing of actual justice. The second part, more important than the first, is aimed not so much at injustice as at inequality, that is to say, the first part aims to secure for each individual exactly what he earns or what he is worth, but this would not eliminate poverty so long as there were men possessing talents or ability so over-supplied as to make the accession or loss of a man a matter of indifference, whereas others possessed talents or ability so scarce as to make the accession or the loss of a man a matter of the



greatest concern. In order to secure equality under justice, we must have a redistribution of human talent. And finally, in order that labor power of all kinds may be effectively applied, there must be an abundance of land on which to work and of tools or capital with which to work. This represents the third part of our legislative program.

A legislative program for the elimination of unearned wealth must be aimed at the three largest and most characteristic forms of unearned wealth, namely, wealth which has accrued through a rise in land values, inherited wealth, and wealth resulting from monopoly profits. There are, of course, a great many pilferings and stealings going on in modern society, ranging all the way from the petty pilfering of gardens and orchards in our suburbs up to the looting of corporations by inside cliques. But while these may call for new legislation at times, in the main they call merely for the administration of existing laws, and therefore will not be considered here. The three forms of unearned wealth mentioned, however, are not only in complete harmony with existing governmental policies, but public opinion is generally favorable to them, at least it is not sufficiently condemnatory to make effective legislation immediately possible. This will require, therefore, considerable popular education, as well as legislation, and is not a merely administrative problem. So nearly do these three forms of wealth exhaust the category of unearned wealth that even the socialist never uses an illustration drawn from any other source. While he may attack capitalism as such, he never in any popular discourse selects an illustration of the evils of capitalism except from one of these three forms of wealth, which are not essential to capitalism at all. That is to say, in his actual illustrations of the evils of the capitalistic system he will invariably refer to some fortune which has been built up by a rise in land values, which has been inherited, or which has been gained through monopolistic methods. So nearly universal is this practice among socialists that the author hereby challenges any socialist to talk fifteen minutes on the evils of capitalism without making use of an illustration from one of these three sources.

A very little discrimination at this point will help amazingly in clearing up the problem. If we object to that form of individual wealth which comes to a private owner through a rise in the site value of his land, the obvious course is to attack the evil directly and

not to attack the private ownership of all productive wealth, which includes many other things besides land. If we object to the private ownership of a fortune which has come to the present owner through inheritance, the obvious remedy is to modify our laws of inheritance and not attack, at the same time, the ownership of capital which has not been inherited but accumulated by the present owner. If we object to wealth which has been accumulated by monopolizing industry and securing abnormal profits, the obvious remedy is to attack monopoly and not, at the same time, attack accumulations that have been the result of productive, as distinguished from acquisitive, efficiency, and by the exercise of the useful economic virtues of frugality, thrift, and forethought. It is certainly not unreasonable to ask students of this problem to make use of this very moderate degree of discrimination, and the writer hopes that he will not seem to be setting up an impossible standard if he suggests that no speaker or writer is worth attention who refuses to observe these rather wide distinctions.

As already intimated, the non-legislative part of our program is more important than the legislative. This includes all those subtle but mighty forces which determine and direct the sentiments and opinions of the people. One of the most tangible economic results of social sentiment is found in what economists have come to call the standard of comfort. By this is simply meant, the amount of income or the degree of comfort which is commonly regarded, in any class of society, as essential to the support of a family. To be effective, this opinion or sentiment must be so strong as to lead men to defer marriage until they are assured of an income sufficient to maintain that standard of comfort.

In such cases it operates on wages very much as the cost of production operates on prices. In the last analysis, cost of production is only the price which is necessary in order to persuade producers to keep on producing. When the price of a certain commodity is so low that men will, in considerable numbers, stop producing it, the supply of the commodity decreases. This tends to check the fall in price, or to cause the price to rise. A similar principle operates in the supply of labor and the price of it. If wages were so low that men in considerable numbers would stop marrying and producing families, labor would, barring immigration, eventually become scarce and hard to find. This would check the fall in wages or cause them to rise.

It makes a great deal of difference in the case of a material product, how much is necessary to induce the producers to keep on producing. If they are satisfied with very little, they will keep on producing even when the price falls to a very low level. Under these conditions, there is no counteracting tendency to cause the price to rise again. It is similar in the case of labor. It makes a great deal of difference how much is necessary in order to induce men to reproduce their kind. If they will marry on a very low wage, it operates to keep up the supply of labor, and to keep wages low. If they will not marry except on a high wage, it tends, barring immigration, to make labor so scarce as to raise wages to that level. The parallelism is very close, in all these respects, between the cost of producing a material commodity and the standard of comfort of the laboring classes.

But the same principle applies as well to the employing classes as to the laboring classes. If the employing classes were willing to marry and raise families on smaller incomes than they now consider sufficient, there would be more people in the employing classes. This would make competition more severe among them. This competition would take on various forms. They would, among other things, compete for the labor of the laboring classes, bidding against one another to get it. This would tend to raise wages.

If, therefore, the laboring classes would develop a higher standard of comfort, and refuse to marry until they had attained it, and if the employing classes would develop a lower standard of comfort, and be willing to marry when they had attained it, we should have a better balanced population and a better distribution of human talent. This would reduce the incomes of the employing classes and raise those of the laboring classes.

There cannot be the slightest doubt in the mind of any reasonable person that both these changes ought to take place. The standard of comfort among the business and professional classes is altogether too high, and that among the laboring classes, especially the unskilled classes, is altogether too low. Education and democratic freedom tend to raise that of the laboring classes, but it is kept down by the immigration of millions of people with a low standard. If this factor could be eliminated, the low standard of comfort among laborers would soon take care of itself. But there is nothing except a wholesome religion or sound moral ideals which will correct the tendency



of the standard among the employing classes to become too high. This is one of the most important questions now before the world, and legislation is powerless to affect it. No one but the moral leader and the preacher of righteousness can reach the difficulty.

Another tangible result of public sentiment on economic conditions is found in the matter of our attitude toward productive work. If the chief desire of every one is to avoid useful work and to pursue the arts of elegant leisure, or indulge in graceful consumption, it will cause much excellent talent to go to waste. Men who ought to be draining swamps, irrigating dry land, building factories, roads, and bridges will fritter away their time in self-amusement, 'loafing and inviting their souls,' or dilettantism. But if the chief ambition of every capable man is to achieve something for the building up of the nation, this talent will be kept from going to waste. Being turned into productive channels it will help the laboring classes in two ways. First, it will increase the comforts and conveniences and place more of them within the reach of those classes. Second, it will give employment to increasing numbers of those classes. As pointed out in a preceding chapter it takes several different kinds of talent or labor power, to do effective work in any kind of production. If one necessary kind is lacking, or very scarce, it limits the amount of the other kind which can be employed. The effective supply of business talent is made scarce by the tendency among business men to retire, and among their sons to cultivate the arts of elegant leisure instead of training themselves for the hard work of the world. If they would do the latter, there would be more productive enterprises started in which laborers might find remunerative employment.

In a similar way, the attitude of the popular mind toward saving has a most powerful effect upon economic conditions. As shown in the chapter on interest, saving increases capital, and capital requires labor to work it. If there is less capital (that is, tools) than is needed by the existing number of laborers, either some of them will be poorly equipped with tools, or some must remain unemployed. If men would save more, that is, invest more of their incomes in tools instead of consumers' goods, there would be tools enough to equip every laborer adequately. There might be even more than the laborers could use. In that case, capital would be cheap, interest low, and the laborers would get a larger share of the total product of industry. Besides,



there would be a larger total product. Thus the laborers would gain in two ways. Luxury tends to produce poverty whereas frugality and simplicity, especially among the rich, tend to produce high wages and prosperity.

The government can, it is true, provide savings institutions and other encouragements to savings, but the general spirit and mental attitude of the people is what will determine whether they will make use of them or not. This attitude of mind is probably of greater importance than anything which the government can do, unless, indeed, the government becomes the means of creating that attitude.

Aside from these direct and tangible ways in which economic conditions are determined by the spiritual attitude of the people, there are a vast number of indirect and intangible but none the less powerful results springing from this fruitful source. A robust and virile morality, stimulated by a sound but fervid religion, may create an intense activity in nation-building among all the people. When every man, woman, and child feels a direct and personal responsibility for the nation's welfare, and an eager desire to have a part in the building of its prosperity, you have conditions of growth which nothing but a geological cataclysm or an international war can counteract. This, more than anything else, according to the best students of the problem, accounts for the prodigious growth and prosperity of Germany from 1871 to 1914.

A really vigorous church, whose preachers were burdened with a sense of responsibility to their country, and endowed with the powers of leadership, could become, next to the government itself, the most powerful agency for the creation of this type of national prosperity. It would have to preach hard and honest work at one's regular job, rather than a vague kind of "social service." It would have to rise to the conception of religion as a means of stimulating the productive virtues rather than of providing passive spiritual enjoyment to its communicants. In short, it would have to preach the gospel of the productive life, and itself become a fellowship of the productive life if it would accomplish these results.

Suppose that every time a doctor got religion he began to give himself to the study of medical science with a new zeal and to the practice of the healing art with a new devotion. The more doctors there were who got this kind of religion the more rapidly medical

science would advance, the better medical practice we should have, and the lower the death rate would be. Spreading this kind of religion would be a very good way of reducing the death rate. The man who would not try to spread such a religion would have something wrong with his mental and moral make-up, and would be a candidate for the madhouse or the jail.

Suppose that every time a farmer got religion he began to give himself to the study of agricultural science with a new zeal, and to the practice of his productive art with a new enthusiasm. The more farmers there were who got this kind of religion, the better agriculture we should have. The effective preaching of such a religion as this would be one of the very best ways of reducing the cost of living.

Suppose that every time a business man got religion he began to give himself with a new enthusiasm to the study of the science of business management, and with a new devotion to the art of business administration. The more business men there were who got such a religion as this the better business conditions we should have, the more productive enterprises would be started, and the larger the demand for labor would be.\* Spreading such a religion as this would do more than anything now being done by any organization for the improving of industrial conditions and the elimination of poverty.

And suppose that every time a mechanic got religion he began to give himself with a new devotion to the study of the sciences underlying his trade, and with a new zeal to the application of his skill. The more mechanics there were who got this kind of religion the more rapid would be the advancement in the mechanic arts. Spreading such a religion as this would be one of the most effective means of promoting general mechanical improvement. And so on through all the other occupations, trades, and professions including that of the statesman,—suppose that the spread of this type of religion made every one who came under its spell a better worker in his own field of useful endeavor, not only stimulating him to greater expenditures of energy, but leading him to conserve and utilize his energy in the most useful and productive ways, avoiding waste and dissipation, lavish consumption and ostentatious display, and all the other un-economic vices. You would then be able to detect the spread of this religion in the vital statistics of the country, in the statistics of production, of the increase of capital and the rise in the rate of wages.

This type of religion could base itself upon a very definite doctrine of salvation, which always implies a doctrine of damnation as its counterpart. This doctrine of salvation would be quite as clear cut as the old doctrine, but would differ from it in some particulars. Having a clear cut doctrine of individual salvation, instead of a vague doctrine of social service, the church could preach to individuals with all of the old fervor and would need no longer to make a spectacle of itself by running around in a circle trying to find something in the way of social service or political reform to espouse in order to justify its own existence.

A thing may be said to be saved when it is prevented from going to waste. If a man's life is going to waste, he is lost. If it can be prevented from going to waste and put to some use, he is saved. The old Hebrew word for sin meant an arrow that has missed the mark. It is wasted,—ineffective,—thrown away,—lost. The only rational definition of immorality is the waste of human energy. That, and that only is sin which results in the waste or dissipation of human energy. When a man's energy is being wasted or dissipated in sloth, in vice, in needless conflict with his fellows, or in misdirected effort, the man is to that extent going to waste, his life is to that extent lost, and he stands in need of salvation. Perhaps it would be better to say that the community needs his salvation. The most precious resource of any community is its fund of human energy. If that resource is wasted the community will be impoverished. If it is saved, the community will be enriched. Here is a doctrine of salvation in which the whole community is vitally interested. This kind of a program of salvation is the greatest conservation program ever conceived. Where is the man with the least spark of patriotism who would not support such a gospel of salvation as this?

Possibly we may conclude that we have been talking prose all our lives without knowing it. As a by-product of the old gospel of salvation men were taught such economic virtues as industry, sobriety, thrift, forethought, and mutual helpfulness. These are virtues because they are ways of economizing human energy. That is what a virtue is. Men have been taught to avoid such uneconomic vices as sloth, drunkenness, riotous living, frivolity, and quarrelsomeness. These are vices because they are ways of wasting human energy. That is what a vice is. In so far as the churches have been means of



promoting those virtues and discouraging these vices, of conserving human energy and turning it into useful channels, they have been performing the greatest possible social service. Compared with this kind of conservation all other programs of social service are trivial.

This by-product of the old gospel of salvation, which some of our more ardent religionists have affected to despise, must become the chief end and aim of all preaching. "The stone which the builders rejected the same is become the head of the corner." The wild, untamed energy of human nature, which tends too much to run riot, to waste itself in the pursuit of whims, to dissipate itself in vice and luxury, to consume itself in fruitless conflict, needs to be tamed, harnessed, and put to work. This is a task of even greater importance than that of taming and harnessing the winds, the tides, and the waterfalls.

In many respects the moral leader, provided he is genuine, and the engineer are performing parallel functions, the one conserving and utilizing human or social energy, and the other physical forces. Viewed from this standpoint, the real moral leader or the preacher of genuine righteousness need not apologize for his existence in the presence of either the engineer or the lawmaker, for his work is more constructive than theirs. Much less does he need to apologize in the presence of those self-styled political reformers whose chief task is that of trying to invent a fool-proof government. This assumes, of course, that we have a rational idea as to what righteousness is, namely, that it is the economizing and utilizing of human energy, the application of it to the building of a strong, prosperous society; that it is "that which keeps the tribe alive," to use the words of an old Indian chief; that it is the kind of conduct which strengthens the pack and enables it to prevail against the hostile forces of the surrounding universe; that it is that which enables the human pack to subdue the earth "and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth."

All this becomes perfectly clear to one who has grasped the full meaning of the two fundamental and antagonistic philosophies of life, the "work-bench" philosophy and the "pig-trough" philosophy. By the work-bench philosophy is meant that philosophy of life which regards the world as an opportunity for work, or for the active joy of productive achievement. By the pig-trough philosophy is meant that



philosophy of life which regards the world as an opportunity for consumption, for the passive pleasures of absorbing the good things which the world supplies. Under the former, we consume in order that we may produce, under the latter we produce in order that we may consume. Under the former wealth is regarded as tools to be used in further production or usefulness, under the latter it is regarded as means of self-gratification; under the former as wealth accumulates it is invested and put to work, under the latter it is gathered into barns in order that its possessor may say, "Soul, thou hast much goods laid up for many years, take thine ease, eat, drink, and be merry."

He who has adopted the work-bench philosophy of life will obviously avoid idleness, vice, and luxury. Since he is intent upon production rather than consumption, on seeing how much he can put into the world rather than how much he can take out, he will naturally avoid destructive conflict as he will idleness, vice, or luxury. Competition among such people becomes rivalry in well-doing, in productive achievement. Since the faculties, impulses, and propensities of each are harnessed to productive purposes, each is also freed from the distractions which would waste human energy. But precisely the opposite happens to him who has adopted the pig-trough philosophy of life. He continually tries to avoid work, and seeks idleness as soon as he is able to live without work. From his point of view, since there is no special reason why he should discipline himself and conserve his energies, vice is cultivated as a means of immediate and obvious pleasure. And, from the same point of view, if one is able to afford luxuries why should one deny oneself merely in order to be more useful, or to use one's wealth more productively? Again, if one's purpose in life is to get as much out of it as possible, rather than to put as much in it as possible, the manners and the morals of the pig-trough prevail. It is only under this attitude toward life that destructive conflict prevails. And finally, the distractions of life have a peculiar hold upon people who are not anchored to a purpose outside themselves.

One of the most wasteful and destructive of all vices is that of covetousness or jealousy of success. Wherever the tendency is strong to regard with hostility the man who has achieved conspicuous success either in business, politics, scholarship, or art, you have one of the most effective means of repressing useful endeavor. Such a community can never prosper. But on the other hand, where in addition

to such pecuniary rewards as may be won, conspicuous success in productive work of any kind whether it be in business, in politics, in scholarship, or in art, receives the reward of a high degree of social esteem and popularity, we have the greatest possible stimulus to high endeavor in these productive fields. This consideration has peculiar value in the field of productive business where accumulation of capital, that is, tools, is such an important element in business success and social service. In a community in which the man who consumes lavishly and even ostentatiously or wastefully is well thought of, while the man who lives simply, preferring to spend his surplus wealth for more tools rather than for the means of luxurious consumption, is despised, we have the greatest possible encouragement to wastefulness, and the greatest discouragement to productive accumulation. Such a community will remain poor and unprosperous, and the people who display such vicious sentiments will be the ones to suffer most, but they will have the poor consolation of having inflicted the suffering upon themselves. In proportion as a community has acquired the radically different spirit which makes it condemn wasteful and ostentatious luxury and approve the simple but strenuous life of productive business, the investment of surplus income in tools of production rather than in articles of self-gratification, in that proportion will the community prosper and the poor be benefited. In this and many other ways a wholesome moral sentiment throughout the community will promote its prosperity, even more effectively, if that be possible, than sound legislation under wise administration of law.

## 29. SOCIAL WORK<sup>1</sup>

The new type of effort called social work gets its distinctive quality in seeking first to understand, and secondly, to affect the problems of the community by means of direct contact with all sorts and conditions of men. Government, we now know, is not a tradition, but a science, which must rely not only upon principles that were once derived from living facts in the past, and remain applicable in so far as these facts continue to be living, but upon principles got by actual wrestling with many new situations. That type of government which

<sup>1</sup>By Robert A. Woods, head of the South End House, Boston. Adapted from "Social Work: A New Profession," *International Journal of Ethics*, October, 1905.

subsists entirely or largely upon traditions of the past is naturally much more concerned with the methods of government than with its aims. As the co-ordination of government with the developing needs of the people is imperfect and incomplete, the mere technical efficiency of administration is highly emphasized, while conditions among the people become such as to corrupt good government at its source. It goes without saying also that a government whose vision is fixed on the past is doing little to anticipate the rising issues or to be in a state of preparedness for new needs in the life of the people. In a community whose public standards become thus belated the same lack of vitality also affects its private and voluntary collective life. The institutions of industry and culture, enormously progressive as they may be within certain lines, and perhaps on account of that very progress, come to have but a partial and ineffectual grasp upon what is in the last analysis the only issue, the properly proportioned and distributed welfare of the entire community.

*The two great social forces to be grappled with.* The new social work profession has for its object to restore to its true place in the fields of politics, industry, and culture this end and aim of all things in the life we are now living.

In the effort to make rapprochement with things as they now are, there are two great social forces to be understood and at first hand grappled with—democracy and cosmopolitanism. It is probable that the knowledge of these forces to which we have as yet attained is in the relation which the prelude bears to the play. Their great developments lie not in the past, but in the present and in the future. They must be studied on the move. The old way of seeing a boat race was to sit still and see the race disappear in the distance. The new way is to see it by racing with it. That is the only way in which the swift and sudden movement of these social forces can be estimated and affected.

For the future, democracy is not merely a scheme of governmental administration, but an ethical system applying to all departments of life. It involves a larger degree of public service, such as to meet new and pressing common needs. It holds to the principle of equal opportunity to all for the proper development of the physical and spiritual powers. It is moving toward a more highly organized and more productive type of industry. Social work stands for an effort on the part of those who represent some type of privilege or resource to



study and in experimental ways to serve the human needs and desires which are the urgent forces back of this great tendency. It aims to bring together people belonging to separate classes, and for certain purposes to organize little groups or societies in which the resources of life shall be in wider commonalty spread. It means through such experiments to lead the way toward a further and broader adjustment with the life of the people; toward mutualization, so to speak, on the part not only of the government, but of the university and the industrial corporation. Its endeavor at every point is to train the people to trust the expert; but it stands distinctly for the principle that in most cases, to say the least, the expert must be such in the application of his knowledge and capacity to the precise needs of the total constituency in whose behoof the knowledge and capacity exists. It is because so many experts know little or nothing as to the life of the masses of people that the people reject them, choosing rather from among their own number those who have this, to them, more important branch of expertness.

As to cosmopolitanism—in this country that problem of the contact and conflict of racial types which faces other nations from without, we have nearly everywhere within arm's length. The cautions which have been suggested with regard to overreachings on the part of such noble national traditions as our own become tenfold more forcible when we have to do with the conglomerate social impulse of people who, as a rule, by the very fact of their presence here, show that they have been under government encrusted with age-long despotism, inefficiency, corruption. It is their nemesis that they bring with them some seeds of this contagion, coming to our shores with little or no training in constructive citizenship, largely lacking even in elementary education, and having an economic standard that for the time, at least, threatens the welfare of our working classes. The social worker undertakes to see that these strangers when they arrive, are not met only by the most degrading influences in our civilization, but come in touch, as soon as possible, with what is uplifting in citizenship, in education, and in industry. He lays increasing stress upon getting these new members of the community established upon an economic basis of self-respect, not only for their own sakes, but because American patriotism has to do essentially not only with certain great political ideas, but with an advanced type of material welfare.



The social worker in this connection applies the results of his study and travel toward bringing to light all the best characteristic traits and intellectual inheritances of people representing the different nationalities and races. By recognizing and protecting these qualities he is able to help the immigrant in making the proper relation between the old life and the new, and to encourage him in holding his family loyally together through the anxious time when the children are going so eagerly into all the life of the new and strange country. The result of such effort is what in the aggregate will make a contribution of the greatest importance to the variety and resource of our future national life. Politically America is a federal union. In its racial character and its type of civilization in general it must be that also. Social work has to do with the building up of a natural federation among all our different racial groups, which will in reasonable degree preserve all that is valuable in the heredity and traditions of each type, but will link all types together into a universal yet coherent and distinctively American nationality.

*The statesmanship of the social worker.* The social worker thus serves to unite the now scattered industrial, racial, and religious elements that are thrown together to make up the population particularly of our great city communities. He establishes bits of neutral territory where the descendant of the Puritans may meet the chosen leaders among the immigrants from Italy, Russia, and the Levant; where the capitalist may meet the trade unionist; where the scholar may meet the ingenious, practical mechanic, or perhaps the philosopher or poet of the people; where the Protestant may meet the Catholic; where the Christian may meet the Jew; and where all can, by establishing friendly relations, aside from and in advance of the conflicts of social sectionalism, come to consider their common interests with regard to particular steps in political development, industrial progress, or the betterment of family life and neighborly intercourse. No mistake can be greater than to think that social work has to do merely with sporadic labors of compassion, with the drudgery of endeavoring to uplift a few individuals only out of the hopeless social residuum, while the great forces of society continue all undisturbed to develop directly or as by-products, their train of social evils. It has taken a considerable part in the noteworthy developments of city government toward improving social conditions among

the mass of city population. It is leading in a marked way toward the development of additional opportunities of training, academic, industrial, and physical, for the eighty or ninety per cent of our children whose education ends with the grammar school. It has been, and is, taking an active share in the large and growing movement both among workmen and employers and among the general public for the improvement of all the conditions of labor. There is no person who has a greater task upon his hands than the social worker, who touches more sides of life and finds himself in co-operation with a greater variety of people representing all classes in the community.

Social work is in its intention, and to an increasing degree in its results, in the nature of unofficial statesmanship. Here lies the real force of its claim upon the university man. We are told from time to time by some of our foremost public teachers and leaders that under existing conditions politics is to the educated man a duty, but can hardly be a career. We are told that it is incumbent upon every man to give some portion of his time to serving the best needs of the public administration, but that so long as there is so much corruption in politics the man who, not having ample private means, enters a political career, involves himself in the risk of having to choose between his honor and a proper living for himself and his children; a risk which the young man is explicitly advised not to take. That the political career of a man without independent means does involve a possibility of this alternative is undoubtedly true, but that for the sake of serving his country, particularly at the present crisis, when it is admitted to be thus seriously threatened by internal foes, a patriot should not be willing to confront such a choice is certainly a new and strange sort of ethical doctrine. It scarcely harmonizes with the sentiments of men who have pledged their lives, their fortunes, and their sacred honor to their country in its need; of women who at one time or another faced every privation to urge their husbands and brothers into their country's defence; of sons and daughters who rejoiced in hampered lives and restricted careers on account of the names they bore. Without warrant in the past, such teaching falls sadly short of the demands as well as of the actual working motives of the present.

This new type of effort stands for the fact that in times of peace the same high patriotic devotion may be as absolutely required as in times of war. It calls upon young men to enter upon a definite and

absorbing career of public service at those points where the public need is greatest. It opens the way in some cases to political action and to public office. It brings men into a political activity of that sort which has to do not only with correcting the technique of government in our cities, but with humanizing them through causing them more largely to meet great collective human needs. Aside from direct contact with the government, it undertakes more and more to build up, first in local units, and then in larger federations, a kind of moral municipality and commonwealth, including all existing organizations and institutions that advance the general good, and such new enterprises as rapidly developing conditions<sup>9</sup> require.

The social work profession thus provides a distinct and inviting opportunity for those university men who feel the moral attraction of public service, but have thought that conditions being as they are, the door of such opportunity is closed. Here it is possible for such a man to lay out before himself a continuous, consecutive career, in which may be included public office so far and so long as political and ethical conditions allow; active political effort in support of good administrative policies and in opposition to bad; the development under private auspices of experiments toward social betterment which may in due time prove worthy of being made part of the public administration; the strengthening of old and the creation of new organizations designed to render that fundamental service of elevating the electorate, and so making possible through an improved citizenship entirely new standards of public administrative rectitude and efficiency. Let no man feel, therefore, that there is anything other than a wide-open opportunity for his entering permanently into what is essentially, and even to a considerable extent, technically, the work of the public administration of the community.

Social work within its wide scope includes the extension of all the older callings so as to meet new and pressing needs. The university settlement, located in the midst of a vast congested area of the great city, has been likened to the monastery of the middle ages, which centered in itself resources for every sort of productive human service. One social worker is primarily a doctor, another a lawyer, another a teacher, another a clergyman, another an artist, another a musician, another a business man, another a sanitary expert, another a politician. The only common requisites for all are human feeling, a sense of



humor, and the spirit of moral adventure. In all these spheres of work the effort is not only to push out into new territory, and to bring the best training and capacity to bear upon the needs which exist among new constituencies of those who cannot seek out and command such high-grade service, but definitely to create new agencies, new institutions, new laws, which will in large ways actually shut off at their source the influences which produce great social miseries and iniquities. In social work the lawyer not only defends the victim of injustice, but classifies the forms of injustice which he sees about him and undertakes by appealing in one form or other to the public administration, to reduce or even abolish whole types of injustice. The doctor endeavors to provide better care in cases of illness, but is more intent upon general sanitary inspection, upon training in cookery, and instruction in personal hygiene; upon the establishment of public baths, playgrounds, and gymnasiums, so as to make it more possible for the masses of children in crowded districts to grow up into healthy adult life. The teacher, while striving to secure for the people some increase of general educational opportunity, is more concerned about such industrial training as will definitely equip them for real demands of life, and strives to overcome those economic handicaps which often prevent children of talent, or even of genius, among the working classes from realizing upon their capacities. The moral leader, perceiving that the sort of guidance and inspiration which might serve among the well-to-do has only a partial appeal where there are so many adverse moral conditions, finds himself giving a large part of his time to organizations for clearing the way for the new generation, so that the hard environment can no longer so greatly restrict the free outgrowth of the spiritual nature. The business man, realizing that it is his function to provision the community, endeavors so far as may be to outdo and have done with charity, providing good housing and good food upon the most reasonable business terms, organizing thrift, seeking to better the means by which employment is found, and initiating experiments toward improving the conditions under which labor is done and raising the standard of wages.

*Social and educational experimentation.* I have said that social work is intended to have a peculiar closeness of relation to the historic forces of the present. It deals, however, with advancing historical forces. It is not, indeed, concerned with distant Utopias, but on the



other hand it leaves behind the ethical perspective of the past, even of the immediate past, except so far as to preserve respect for yesterday's motive in forming a postulate for the work of to-morrow. The idealism of the social worker is of the opportunist, possibilist type. He seeks to take each successive next step towards a better social order, which he dares to dream of but does not expect to see let down from the skies. So also the social worker is not primarily a builder of institutions. He seeks first of all to permeate existing institutions with a new spirit, thus gaining for his cause the driving force of the acquired momentum of this existing institutional life. Where suitable organizations do not exist to accomplish results which seem desirable and important, he creates such organizations; but as soon as may be he cuts them adrift, leaving them to go on by their inherent forces, and trusting that they will gradually gather for themselves the general support of the conservative elements in the community.

### 30. CONSTRUCTIVE AND PREVENTIVE PHILANTHROPY<sup>1</sup>

The common object in the promotion of which the many and varied activities of constructive and preventive philanthropy find their unity, and can be classified and understood, is the fostering of life,—the protection and cultivation, that is to say, of the spiritual element in the individuals and communities whom they seek to benefit. Philanthropists have sought this object partly by means that may be called in the narrower sense of the term preventive: by laws and other measures, that is to say, for the direct repression of evil or for the abolition of influences or surroundings found to be an injury or a hindrance to life, on either the moral or the physical side. But by far the greater part of present philanthropic effort is aimed directly at the development of the spiritual life through the encouragement and facilitating of its expression in concrete and definite achievement. This effort is also preventive in its effects, as the promotion of health is inevitably prevention of disease.

The institutions that promote the saving of money aim to build up, by exercise, in the minds of those whom they can reach, the habit

<sup>1</sup>By Joseph Lee, president of Community Service, Inc. Adapted from *Constructive and Preventive Philanthropy*, pp. 2-7. Copyright, 1902, by The Macmillan Company, New York. Reprinted by permission.

of vividly imagining their own future, and of the determination to control it, aim to cultivate in them the unity of thought and of purpose that distinguishes life properly so called from a mere succession of unorganized and unrelated acts and sensations. The philanthropies that aid in the formation and successful conduct of the home seek to secure for the individual that broadening of the conception of life that comes from the habitual and active subordination of one's individual and private aims to the life of the family. The philanthropy that has dealt directly with children has, unconsciously and independently, rediscovered the great educational truths that life grows by expression, by doing and not by receiving, and that child life and family life are one. It seeks, by promoting the activities, such as sloyd and outdoor games, which make the deepest emotional appeal to the nature of the child, to call into fullest and most vital activity all the power that is in him; and it aims by its introduction of the kindergarten into the school, by the reverential attitude expressed in all its dealings with family life, and by relating as far as possible every activity to it, to develop the child as a child, as a member of a family and the inhabitant of a home, and not as an unrelated and irresponsible social atom or outsider. For grown people philanthropy aims, by trade teaching, by forms of partnership, by village industries, to make men's daily work an expression of thought and character, a part of life, not a squandering of life's best hours on a task alien, extraneous to life and making no contribution to it. Finally, in its efforts on behalf of adults outside of business and the home, philanthropy is beginning to show at least so much of educational insight as is implied in seeking to make of the individual, not a social atom in whom life and purpose have been starved down to the narrow limits of unrelated individual existence, but a member of a family and a citizen.

In short, constructive philanthropy seeks to intensify life by promoting activity toward objects at once more definite and more inclusive, objects embracing first the individual's own future definitely conceived, and then the larger whole of the family, and finally of the state. Such is its nature and essence; but the subject has certain conventional, and, from the philosophical point of view, arbitrary, limitations which must be noted.

First and especially, I wish to say that I do not seek to arrogate to the class of effort and achievement of which I am to write a

monopoly of the titles "constructive" and "preventive," which does not properly belong to it.

Constructive and preventive work may be divided into two classes, one dealing with the question of who shall be born, and the other with the question of what shall happen to people after they are born. Of these two classes of work the biologists tell us alternately that the former is the more important way of producing permanent and cumulative results, and that it is the only way; and yet direct preventive work of this kind—the sterilization of the insane, the feeble-minded, the epileptic, the morally impotent, and the incorrigibly vicious—belongs to that part of philanthropy which is generally considered farthest removed from the preventive, namely, that which deals with the more hopeless classes.

Furthermore, all good work which we ordinarily class as "treatment" is really largely constructive. The friendly visitor to a poor family is laying the foundations for a healthy and successful life in the children; he is also filling a place that would otherwise probably be filled by unwise public relief, and is thus indirectly preventing the positive culture of pauperism.

Nor is it any part of my task to tell of those principal constructive forces which are found in our every-day political and business life. If a man leaves the town or the part of the city where he was brought up and goes to live in a college settlement to take part in recognized philanthropic effort, he comes within my subject; but if he stays at home, goes on his school committee and board of selectmen, attends primary conventions, and in general does his share of the public work to be done, his service, although perhaps it is the most important constructive work that is done at all, is regarded as being a matter of course, becomes merged in the larger subject of good citizenship, and is not classed as philanthropic.

And in general, as soon as a social service has become an established and fully recognized part of our public or private duties, it ceases to come within the present subject. When public schools were started in this country, they were, and still remain, the most important step ever taken in the way of constructive philanthropy, but they have now become a matter of course, and are not included here, while such recent extensions of the same principle as are found in our vacation schools and trade schools do come within the subject, simply

because they are new. It is, in short, only with such constructive or preventive work as is a part of the new growth on the ever-growing tree of social life that we have to deal.

It is unnecessary to point out that beneficent activities undertaken for purely business motives, of which the social effects are wholly incidental, are not classed as philanthropic ; nevertheless, for the sake of proportion and of the relations of things we must remember how important these are. Thus, I shall speak a great deal in what follows<sup>1</sup> of new developments of opportunity for play and exercise, but it is important to bear in mind that the evolution of the bicycle, of which I shall say nothing, has done far more in that direction than all our philanthropic efforts put together.

Finally, in order to understand the philanthropy of the present day, it is necessary to note that its motive has shifted and is shifting, from a motive felt by one class to do good to another class, into a motive that can be entered into by all, which takes as its object not the helping of one sort of people, but the building up of the better life of the community. It is no longer what I can do for you, but what we can all do for ourselves and our country.

<sup>1</sup> *Constructive and Preventive Philanthropy*, chaps. vii-xiii.



## CHAPTER X

### SOCIAL CONTROL

#### 31. SOCIAL SELF-CONTROL<sup>1</sup>

Assuming that general sociology, whatever else it may comprise, is particularly concerned with the phenomenon of social self-control,<sup>2</sup> including under this term the social determination of the composition of the community, the control of conduct, the promotion of efficiency, the shaping of social organization and the determination of general policies, we may further look at the whole subject in certain other lights, hoping so to get a more rounded notion of what social self-control is, how it arises, what it does and by what methods it may be subjected to effective scientific study.

All nations compel their subjects to live under restraints and to perform prescribed acts. As far as their observed conduct goes, subjects must be loyal, whether or not they are patriotic at heart. In a lesser degree the modern nations constrain their subjects in accordance with some prevailing idea of the common good. A protective tariff, for example, does not altogether prevent, but it restricts, the purchase of desired commodities produced abroad.

Within the broad limits fixed by national policy, states and municipalities regulate the individual lives of their citizens in endless detail. From birth to death the pressure of organized society is hourly felt by its conscious units. Parental authority is restrained within bounds which the state prescribes. At the command of the state the child is taught and drilled. Growing to manhood, he orders his walk and conversation as the state instructs, or he languishes in jail.

<sup>1</sup>From *Studies in the Theory of Human Society* (pp. 200-208), by Franklin H. Giddings, Ph.D., LL.D., Professor of Sociology and the History of Civilization in Columbia University. Copyright, 1922, by The Macmillan Company. Reprinted by permission.

<sup>2</sup>In employing this term I am not trying to improve upon the phrase made familiar through Professor Ross's admirable book on *Social Control* but am only examining some aspects of social control more particularly.

If the citizen, thus reared and moulded by an external power manifesting itself through government and law, happens to be a religious as well as a political animal, he finds himself subjected to further rules and orders. The church to which he belongs exacts an obedience sanctioned by penalties which may be as fearsome to his mind as are the fines and imprisonments imposed by a secular power. If he earns his bread in the sweat of his brow, he discovers that he is only partly free to work as he pleases, or when or as long as he pleases, or to make such contracts as his own best judgment approves. The "walking delegate" finds him out and instructs him in the ethics of industrial solidarity. If in idleness he consumes the substance that other men have provided and, in the quiet of his club, seeks refuge from the over-regulated life of a Philistine world, even there he encounters the rules committee taking cognizance of his language and his drinks, and standing ready to exclude him if he oversteps the line of that conduct which is reputable among gentlemen.

In barbarian and in savage communities the collective regulation of life is not less but greater than it is in the civilized state. The bounds that may not be overstepped are narrow and dread. Immemorial custom is inflexible, and half of all the possible joys of existence are forbidden and taboo.

Even in animal bands and herds, individual behavior is constrained. Inadequate or obnoxious members of the company are abandoned, expelled, or killed by their fellows. We do not presume that in animal groups there is any cooperative understanding in these matters. We cannot suppose that there is. But through like response to the same stimulus or to similar stimuli, through suggestion and impression, a real although non-reasoned cooperation is effected. While, therefore, we may not say that animal society abides by rules, we observe that it lives by habits from which a member departs only at the risk of life.

There would be no excuse for bringing forward observations so commonplace as these if the general truth which they thrust upon us had not been very nearly left out of consideration in our attempts to establish the broad conceptions of a science of society. Whatever else society is, it is a group of units and relations which collectively acts under self-direction. It not only manifests a continuing process, as brain and nervous system manifest the processes of mind, as organic matter manifests the processes of life, but also, like living matter

and like mind, it controls its own processes. Society constrains. Unconsciously at first, but consciously in its later and higher development, it brings pressure to bear upon its component units. It incites and restrains them. It trains and moulds them. It conforms them to a norm or type and sets limits to their variation from it.

Here, then, we have a generalization of significance. Society is a type or norm or mode, which in a measure controls the variations from itself.

In thus functioning, society, by trial and error and by rational effort, carries further and brings to greater precision that process which in its unconscious mode we call natural selection. In the organic struggle for existence those individuals and those groups survive which are adapted to the conditions under which they dwell. This is only another way of saying that organisms which in some fortunate way combine certain structures, qualities, and traits, and which, therefore, conform closely to a type that happens to be suited to a given place, can live there; while individuals or groups that vary too widely from this type sooner or later fail there to perpetuate their race. Or, to put it in yet another way, in every inhabitable region there is an environmental constraint, compelling conformity of organic structure and of life to certain adapted or adaptable types, from which variation is possible only within somewhat definite limits.

It is because of this conformity to type that society arises. Typical units or individuals of a given species or variety are alike as far as they are typical. Animate individuals that closely resemble one another respond in like ways to the same given stimulus or to similar stimuli. So organized and responding, they want the same things and by similar behavior try to obtain them. If the supply is inadequate for all and some part of it can be obtained by individual effort, like acts develop into competition. If the supply is adequate for all but cannot easily be obtained by individual effort, the like efforts of many individuals directed toward the same end develop, unconsciously and accidentally at first, but afterwards, in mankind, rationally, into cooperation. In either case, those adaptations which the animate organism, in common with all others, makes directly to its environment in general, are supplemented by a set of highly complicated adjustments made to the similar adaptations of other units like itself.

These adjustments of animate individuals to the like adaptations of other individuals of their own kind are the bases of social relations.

Repeated and developed into habits, they create and establish those relationships which we call social organization.

The similarity which is antecedent to all these adjustments and relations becomes to some extent an object of consciousness in all associating creatures of the higher varieties. Appearing first as sympathy, it develops into a perception of likeness and at length, in mankind, into a more or less rationalized understanding of resemblances and differences, of agreements and dissensions. Step by step with this evolution of a consciousness of kind, the importance of "kind" itself is apprehended. Fundamental identities or similarities of nature and purpose, of instinct and habit, of mental and moral qualities, of capacities and abilities, are recognized as factors in the struggle for existence. To the extent that safety and prosperity depend upon group cohesion and cooperation, they are seen to depend upon such conformity to type as may suffice to insure the cohesion and to fulfil the cooperation.

Conforming to the requirement of group life—which itself is a product of the struggle for existence—animals instinctively and by habit, human beings instinctively, by habit, and rationally, manifest a dominant antipathy to those variations from type which attract attention. There are striking exceptions to this rule, as there are to nearly all rules of behavior by organic units. But the rule is beyond question. From the insects to the highest mammals, individuals deformed or queer are commonly objects of attack and may be put to death by their fellows. Death or abandonment usually overtakes the conspicuous variates among savages and barbarians, while in civilized communities they are objects of suspicion and avoidance, or of guardianship or restraint, according to the state of enlightenment and the degree of humane feeling.

How far individual conduct in swarms of insects and in bands of gregarious animals is forced into conformity to type by an instinctive adjustment, distinct from a circumstantial constraint, it is not possible on the basis of present knowledge to say. That the uniformity of human conduct in savage and barbarian communities is immediately a product of social constraint—largely spontaneous, imitative and unconscious, but also partly conscious and deliberate—and only remotely and indirectly a product of environmental or circumstantial constraint, is a fact too familiar to call for demonstration. By the



conscious cooperation of elders in directing the rearing of children by young parents, by organized initiation ceremonies, by clan and tribal councils, each new generation is remorselessly trained in those beliefs, habits and loyalties which the group regards as vital to its existence. Carefully analyzed, the entire mass of inculcations and restrictions whereby individual behavior is controlled in uncivilized society may be seen to be a means of enforcing conformity to type, of recognizing and maintaining a "kind," for the ulterior purpose of ensuring group cohesion and cooperative efficiency.

The restraints, the inculcations, the obedience-compelling devices of civilized society are so varied and so interlaced that they easily mislead, and it is only after long and comprehensive study of them that one begins to grasp their nature and function. Stripped of all adventitious features, they one and all are means to the same general end which is served by social constraint in barbarian and in savage communities. They determine, limit and control variation from type, now extending its range, now narrowing it and compelling a closer conformity.

A word must here be added regarding the consequences of social control. Society constrains. What are the effects of constraint?

The proximate results are new or wider uniformities of behavior and ultimately of character. Life is made so difficult for the variates that stray too far from type that they go down in the struggle. Society, in a word, creates artificial conditions of existence which affect selection, as natural conditions do, by determining a selective death-rate. When, for example, a Christian civilization compels a savage population to wear clothes, it kills off those individuals whose viscera cannot adapt themselves to the unaccustomed burden. When society increases its educational pressure, it eliminates some who cannot endure further nerve strain or whose reproductive powers fail under the increased requirement of individuation. Social constraint, then, creates artificial conditions, which act selectively upon the associated units.

From a human point of view, such selective action may be good or evil. It may tend to produce and to perpetuate a stock of which intelligent minds think well, or one of which they think ill. From the point of view of the evolutionary process, the selected and surviving stock may be one which perpetuates its line with diminishing or with increasing cost to the individual. Assuming that race perpetuation

with diminishing cost to the individual, or with actual increase of individual opportunity and happiness, is worth while and is, substantially, the thing which mankind calls progress, we may say that social constraint makes for progress or against it.

Summarizing the foregoing observations, we note that the unconscious evolutionary process in nature creates types. Because they conform more or less closely to type, animate organisms of the same variety or kind want the same things and in like ways try to obtain them. The various primary adaptations to environment, therefore, are inevitably supplemented by adjustments made by each individual to the similar adaptations of fellow-individuals. Group relations in which both competitive and cooperative activities are carried on—unconsciously and only accidentally at first, but presently, in the human species, deliberately—therefore necessarily appear. Society comes into existence. The conscious units of human society become increasingly aware of differences and resemblances among themselves. They apprehend the extent of their conformity to type or kind. The belief arises among them that in most instances marked departure from type is dangerous to the safety of the group or is a limitation of cooperative efficiency. Conformity to type is regarded as contributing both to the safety and to the efficiency of the group. Out of this notion grow conscious efforts to increase conformity, to scrutinize the "kinds" and to limit the range of variation. A social constraint is consciously evolved which exerts its pressure upon all component units of the group. Like environmental constraints, social constraint affects selection. In the long run it makes itself felt in the selective death-rate. The kind or type that survives under social pressure is believed by the conscious units of society to be relatively efficient in the struggle for existence. It is supposed also to be relatively individualized. A group or community in which increasing individuation is secured without imperiling race maintenance thinks of itself as progressive.

The means of constraint that society uses, as we learn early in life by individual experience, are rewards and punishments. By praise and blame, by avoidance and rebuke, by indulgence and license, by penance and fine, by suspension and expulsion, by corporal punishment and maiming, by imprisonment and execution, men are forced to desist, to obey, to help; their conduct is educated into habits; their

efforts are stimulated or goaded to acceptable degrees of intensity and persistence; their characters are moulded to approved types.

For all these processes of constraint and regulation in their entirety, society has its own descriptive names. Collectively they constitute the thing familiarly known as discipline, and their objective product, conformity of behavior, is morale.

Upon the creation and perfecting of discipline, and upon the standardizing of behavior and the selection of character by means of discipline, society has directed conscious efforts from the beginning. At first blunderingly, afterwards more or less skillfully, it has discovered, applied, and tested disciplinary measures. The larger number and the best of them have been folkways. Stateways have been cruder, often cruel and often disastrous, but sometimes necessary and effective. But whether folkways or stateways—the particular methods constituting discipline have been employed in the conviction that much conformity to kind or type or standard is essential to security and to cooperative efficiency. The object in view from the first has been to diminish the failures and to multiply the successes of associating human beings, in the struggle for existence.

If then we say in the language of every-day life, that society is an organization for the promotion of well-being and efficiency by means of standardization and discipline, we say the same thing as when in evolutionist terms we said that society is a type, controlling variation from itself for its own survival and further evolution. Discipline, from the evolutionist point of view, is a distinct phenomenon, differing in kind, rather than in mere degree, from all others. Motion, the activity of all matter, inorganic or organic; metabolism, the activity of organic matter; response to stimulus, the activity of animate organic matter; discipline, the activity of type-conforming conscious groups—this is the series of natural phenomena. Physics and chemistry, biology, psychology and anthropology, sociology—these are the corresponding sciences.

Material for the descriptive and historical study of the evolution of discipline and of the relations of discipline to efficiency, to individuation and to survival, is abundant, but as a phenomenon of control, by a type, of variation from itself, it calls for quantitative study by the statistical method, since type as it appears among natural objects, including forms of plant and animal life, as it appears in mental

processes and in conduct, and as it appears in the groupings and the collective activities of individuals socially organized, can always be expressed in the statistical terms of "frequency" and "mode." In other words, a type or norm can be resolved into numerical elements.

The question may naturally and properly be raised, however, whether numerical measures of social constraint would afford us any knowledge that we could not more directly obtain by other methods of inquiry. The corresponding question was raised when statistical methods were introduced in biology and in psychology. We may confidently anticipate that the conclusive answer which trial and demonstration have afforded in those sciences will be reached and accepted in sociology also.

A simple illustration may help to make the point clear. The temperature of the human body in health fluctuates within narrow limits about the normal of  $98.5^{\circ}$  Fahrenheit. Under the physiological disturbance of disease or of shock, the range of variation is greatly widened, and every one acquainted with modern medical practice, in hospitals and elsewhere, knows how closely the temperature curve is watched by nurses and physicians. In most cases the fact of illness or of shock is known independently of any scrutiny of the chart. But there are instances, sometimes critical ones, in which the temperature fluctuation affords the first warning; and in all cases it affords the warning that possesses the qualities of exactness and degree, and upon precisely these qualities the issues of life and death may turn. In other cases the condition of the system is made known by a blood test that is statistical in form, consisting in a count of corpuscles exhibiting certain characteristics; in yet others by records of heart action and of arterial resistance.

It is reasonable to suppose that the social constraint which in any given community bears upon individuals and upon component or constituent groups is, under ordinary conditions, of a degree and an extent that may properly be described as normal, and that any considerable fluctuation from normal, could we measure it, would immediately make known to us the action of disturbing forces. The value of such knowledge can hardly be overestimated. The question, how much restraint, how much liberty, how much conformity to type, how much variation from it, are conducive to the general welfare, is the supremely important question in all issues of public policy. The



right answer to it turns upon the determination of a previous question, namely, what is normal social constraint in a given community, at a given stage of its evolution, and what at a given moment is the actual range of fluctuation?

To obtain, then, determinations of normal social constraint for modern communities, including municipalities, commonwealths, and nations, and to perfect the methods of measuring fluctuations must, I think, be regarded as an important object of sociological effort in the immediate future.

### 32. THE MEANS AND CRITERIA OF SOCIAL CONTROL<sup>1</sup>

In respect to their fundamental character, it is possible to divide most of the supports of order into two groups. Such instruments of control as public opinion, suggestion, personal ideal, social religion, art, and social valuation draw much of their strength from the primal moral feelings. They take their shape from sentiment rather than utility. They control men in many things which have little to do with the welfare of society regarded as a corporation. They are aimed to realize not merely a social order but what one might term a moral order. These we may call ethical.

On the other hand, law, belief, ceremony, education, and illusion need not spring from ethical feelings at all. They are frequently the means deliberately chosen in order to reach certain ends. They are likely to come under the control of the organized few, and be used, whether for the corporate benefit or for class benefit, as the tools of policy. They may be termed political, using the word "political" in its original sense of "pertaining to policy."

Now, the prominence of the one group or the other in the regulative scheme depends upon the constitution of the society. The political instruments operating through prejudice or fear will be preferred:

1. In proportion as the population elements to be held together are antipathetic and jarring.
2. In proportion to the subordination of the individual will and welfare by the scheme of control.

<sup>1</sup> By Edward A. Ross, Ph. D., LL. D., Professor of Sociology in the University of Wisconsin. Adapted from *Social Control*, pp. 411-412, 417-431. Copyright, 1901, by The Macmillan Company, New York. Reprinted by permission.

3. In proportion as the social constitution stereotypes differences of status.

4. In proportion as the differences in economic condition and opportunity it consecrates are great and cumulative.

5. In proportion as the parasitic relation is maintained between races, classes, or sexes.

In confirmation of these statements, we have but to recall that the chief influences which history recognizes as stiffening State, Church, Hierarchy, Tradition, are conquest, caste, slavery, serfdom, gross inequalities of wealth, military discipline, paternal regimentation, and race antipathies within the bosom of the group. The disappearance of any one of these conditions permits a mellowing and liberalizing of social control.

On the other hand the ethical instruments, being more mild, enlightening, and suasive, will be preferred:

1. In proportion as the population is homogeneous in race.

2. In proportion as its culture is uniform and diffused.

3. In proportion as the social contacts between the elements in the population are many and amicable.

4. In proportion as the total burden of requirement laid upon the individual is light.

5. In proportion as the social constitution does not consecrate distinctions of status or the parasitic relation, but conforms to common elementary notions of justice.

### *The Limits of Social Control*

Each increment of social interference should bring more benefit to persons as members of society than it entails inconvenience to persons as individuals.

Social interference should not lightly excite against itself the passion for liberty.

Social interference should respect the sentiments that are the support of natural order.

Social interference should not be so paternal as to check the self-extinction of the morally ill-constituted.

Social interference should not so limit the struggle for existence as to nullify the selective process.

*The Criteria of Social Control*<sup>1</sup>

The question "How should society impose its will?" is equivalent to "How can society tell the good weapons in its armory from those that are worn out or obsolete or unserviceable?"

This summons us to lay down criteria for judging an instrument of control as good or bad.

One mark of a good disciplinary agent is economy. On this principle a method that, once and for all, moulds character is superior to one that deals merely with conduct, which is but the index of character.

Again, the superior methods of control are inward. An external means, such as punishment, operates only so long as it is inevitable.

The best guarantee of a stable control from within is something that reaches at once feeling, reason, and will. To be widely effective for righteousness a religion should strike the chord of feeling, but not so exclusively as Quakerism, or Shinto, or Neo-Catholicism, or the Religion of Humanity, or the Salvationists.

Simplicity is another mark of the great agent of discipline. Albeit beliefs are associated with many of the means of control, a type of restraint when it gets inextricably entangled with a particular cosmology or theology, when it rests squarely upon some dogma such as the Last Judgment or the Divine Fatherhood or the Unseen Friend, must be regarded askance, however transcendent its services.

Still another test of good control is spontaneity. The best control is that which rises afresh whenever a handful of persons associate, which, therefore, cannot be cornered and monopolized by a scheming class or profession.

The diffusion of control is, in fact, the chief security against its excess. In a tribe of Kaffirs, or Bedouins, if the rule of chief or medicine man or tribal opinion becomes too oppressive, the insubordinate decamp, and join some other tribe or form a band of their own.

Accordingly freedom becomes a passion, laissez faire a dogma, skepticism a creed, egoism a religion, and all the rills of opposition run together into a great current of individualism which accompanies the development of control as a check and a reminder.

<sup>1</sup> Admirably vindicated in chapters xxxi and xxxii of Ross, *Social Control*.—Ed.

33. INTERVENTION OF THE STATE<sup>1</sup>

The last century has witnessed a process of change in the social structure, and a change which has been in the direction of growing complexity. An increasing amount of work has been thrown on the State as the instrument of social action for common ends, although the political theory inherited from the Eighteenth Century and continued throughout the Nineteenth, has been far from offering any explanation or justification for this tendency. On the contrary, the idea of the age has been to leave everything so far as possible to the control of private enterprise. Yet in spite of the drag of a laggard philosophy, nothing is more noticeable in the history of the last two generations than the repeated extension of State action into spheres which had been regarded as properly outside of its interference, if not of its cognisance.

The intervention of the State gradually changes in character, partly in response to forces which compel government action, partly by the necessity of the extended action itself. But the change in character is not always equal to the change in function. The demand for State action often rests on foresight of what the State will become.

But side by side with a process of increasing complexity in the social structure has come also a deeper view of society. The economic development has made society more complicated at the same time that the development of thought has prepared men to understand the complexity.

## I

*The municipality as possible instrument.* We must remember that the instrument of social action has also become more pliable. State action is by no means so exclusively action of a central executive as it used to be.

We find also that the municipality ceases to be regarded merely as an instrument for doing what private effort cannot do. . . . The creation of this vigorous instrument of public administration has resulted in a large and varied demand for municipalisation, for municipal trading, and for municipal medical service.

<sup>1</sup> By B. Kirkman Gray. Adapted from *Philanthropy and the State, or Social Politics*, pp. 127-133. P. S. King & Son, London, 1908.



The development of civic activity may be regarded in another light. It is not only a matter of the community managing its own affairs. The city is also a centre round which enthusiasm rallies. This is not a thing open to statistical treatment, nor does the mood of loyal response characterise by any means all the citizens. Yet it is a sociological force which it would be folly to overlook. Where this enthusiasm is evoked it prepares the way for a new attitude towards all those problems which used to be regarded as philanthropic. The range of civic action tends to grow wider until by degrees it comes to include an implicit theory of communal obligation towards the weaker classes.

This is a process which is bound to acquire an accelerating momentum. The best local authorities are becoming increasingly capable; they are proud with a pride which often goes even beyond their merits. They do not mistrust themselves or their ability to undertake new duties. This preparedness is matched by an increasing disposition to use this instrument for all it is worth. People come to doubt the power of private benevolence to deal with large and complicated evils, such as sickness, bodily or mental defectiveness, unemployment, and the other forms into which the one disease of exorbitant penury breaks forth. Where they mistrust the private purse and the fluctuating efforts of charity, they put confidence in the power of the community, and in the possibility of a transfigured Department of Health.

These are among the forces which are driving the State to extend its sphere, whether through Central Government or Local Authority.

## II

When we consider the matter more closely we find that the intervention of the State does not take place all at once, nor does it follow any single type. We may indeed distinguish several types. Perhaps for the purpose of a preliminary analysis it will be sufficient to indicate six main forms into which one or other kind of State intervention will pass.

*Annexation.* This is the simplest type and probably the one which would immediately occur to most people. It is indeed quite possible that some think of this and nothing else when they hear of State intervention. The public authority simply steps in to do what had been

done previously by private persons, if indeed it had been done at all. Illustrations may be found in the cases of Lunatic Asylums and of Elementary Education. Neither of these is so absolute a case of annexation as was that of the telegraph,<sup>1</sup> to turn to another sphere, that of commercial interests. The State says, "I will send telegrams and no one else shall compete." That is annexation in its most complete form.

*Partition.* Before the intervention begins the whole realm is occupied by private enterprise, so far, that is, as it is occupied at all. In time voluntary action appears inadequate to the task, usually of course because the work is seen to be greater than was supposed. Voluntary action is left to act in one part of the field,—State action is resorted to in another part. The most considerable instance of what I call partition is found in connection with the relief of sickness. In 1842 the State refused subvention to a fever hospital; in 1906 society is responsible for all (notified) infectious disease, and through its Poor Law Infirmarys for the great bulk of non-infectious disease, leaving to private benevolence only a minor share in the whole work.

*Co-operation.* The relation becomes more subtle. The State takes account of the whole territory, but it utilises the assistance of "philanthropic associations or benevolent persons." Obviously in such a case the dominant power will be official and public, and the position of the individuals will be restricted and subordinate. One good instance of this third type is to be found in connection with the prisons. Government has, though only recently, assumed full responsibility for all prisoners, while they are in prison; but it avails itself of Prisoners' Aid Associations, unofficial visitors, lecturers, etc. One feature of our elementary school system would bring it under this head of co-operation, that, namely, which concerns the appointment of voluntary school managers.

*Supervision.* This type has features in common with the last. The State controls voluntary work, sets the task, and determines the conditions. But the individuals are left with a larger amount of freedom. Certain conditions must be complied with, and the State employs Inspectors to ensure at least a minimum of compliance. The Voluntary and Denominational School was an instance of this type up to the time of the Education Act of 1902. The Reformatory movement

<sup>1</sup>The examples cited in this article are from Great Britain unless otherwise specified.—ED.

is also a case in point. The actual executive body is composed of private citizens acting under the supervision of the public official. It is hardly necessary to point out that nothing but the need for financial subsidies would reconcile free-born Englishmen to submit to so much expert direction and control of their beneficent activity.

*Co-ordination.* This is a particularly interesting type and indicates the complexity of some of our modern problems. The instance in which it has been most thoroughly worked out is that of the Inebriate Homes. Here philanthropy does something and the State does something. So far we have a resemblance to the previous type which we called partition, which should be distinguished also from co-operative subordination. In that case, there was no interdependence. Voluntary hospitals do their work much as if no State hospital existed, and the State in its turn acts pretty much as if there were no Hospital Funds and Hospital Collections. It is not so with inebriate homes. There are three kinds, each intended for a particular class of patients. One of them depends on private, two of them on public, action. But each of them is regarded as essential in order that any of them may function successfully. The scheme is interesting and provides the framework for a really valuable work, the scheme, I say, because as everybody knows, the actual treatment of inebriates needs still much extension and improvement.

*Delegation.* This is the sixth and last type. The State so far recognises the claims of humanity as to delegate its function. That it regards the work as properly its own is shown by its nominating private citizens to discharge the duty, though for some reason or other the State is here unwilling to be its own executive, it may be, from a lurking remnant of the older philosophy which would restrict State action within the narrowest limits. The most typical illustration of delegation is that of the Society for the Prevention of Cruelty to Children. The Society enjoys a Royal Charter, and is deputed to do work which is properly a State responsibility. It steps in to do the evaded duty, and enjoys a modified sanction for its work. It thus occupies an ambiguous position between a public and a private body.

The Society pleads that inasmuch as it is doing public work at an increasing cost it should receive a more thorough recognition, and should not be left to an anxious quest for subscriptions. It seems impossible to question the propriety of its claim.

## CHAPTER XI

### SOCIAL LEGISLATION

#### 34. HISTORIC CHANGES OF POLICY AND THE MODERN CONCEPT OF SOCIAL LEGISLATION<sup>1</sup>

The main phases of evolution which are summarized in the catalogue of changes which follows are perfectly familiar; they are restated simply in order to bring out pointedly the drift of modern legislative thought and its significance.

They arrange themselves naturally under a few principal heads: the recognition of the right of personality; the establishment of freedom of thought; the repression of unthrift and dissipation; the protection of public health and safety; and the relief from social injustice.

##### I. *The Right of Personality*

It is a commonplace of legal history that the importance of status as something differentiated from personality diminishes as we proceed from primitive to modern law. We have almost attained to a wiping out of personal differences in relation to legal rights; but the leveling process is in many respects quite recent, and, so far as it goes, has in the main been fully accomplished only in the course of the nineteenth century.

Let us briefly review the principal phases in the establishment of free and equal personal status.

1. *The abrogation of personal slavery and serfdom.* These have practically disappeared from the face of the civilized earth. By the beginning of the nineteenth century all personal unfreedom had ceased to exist in Western Europe, and Russian serfdom was abolished in the early sixties. About contemporaneous was the fall of negro slavery in the United States, which was made legally perfect by the Thirteenth

<sup>1</sup> By Ernst Freund, Ph.D., Professor of Jurisprudence and Public Law in The University of Chicago Law School. Adapted from *Standards of American Legislation*, pp. 7-33. Copyright, 1917, by The University of Chicago Press.



Amendment, proclaimed in December, 1865; the emancipation of negro slaves held by whites had begun in 1833 in the British colonies, and was completed by the act of Brazil in 1888. European powers still tolerate customary forms of domestic slavery within their spheres of influence in Africa; but even here the slave trade is suppressed by the Brussels convention of 1890.

2. *The disappearance of legal class distinctions.* If we ignore the anomalous and rapidly waning status of our own tribal Indians as wards of the nation, Russia<sup>1</sup> alone of the Western nations continues to divide her people into classes having different legal capacity (nobility, clergy, citizens, peasants, besides Asiatics and Jews). France did away with class disabilities as a result of the great Revolution in 1789, while in Germany the last traces of peasants' disabilities did not disappear until 1867. Blackstone gives in his *Commentaries* a list of classes of the community which (barring the political privileges of the peerage) impresses us as formal and practically insignificant; it has indeed been one of the chief merits of the common law that for many centuries past it has been singularly free of class distinctions. This rule of equality was inherited by the American law. Because the principle of equality had never been a great issue in the constitutional history of the English people it received only a perfunctory recognition in the early bills of rights; its deliberate and distinct formulation by the Fourteenth Amendment was due to the race conflict of the South and came only after the Civil War. The practical acceptance of the principle thus long preceded its formal declaration. The principle encounters difficulty only in its application to the colored race; and in the legal enforcement of reciprocal discrimination and segregation in marriage, in education, and in transportation in public conveyances denies the principle in substance, while claiming to respect it. The demand for legal penalties shows that the social sanction is not believed to be sufficiently strong to maintain a separation strongly supported by the sentiment of the dominant class.

Apart from this anomaly, however, in the modern world the accident of birth as a member of a social class neither carries privilege nor entails disability in the capacity to acquire or hold legal rights.

3. *The recognition of the legal rights of aliens.* In the ancient Roman law alien and enemy were, alike, covered by the same term—

<sup>1</sup>This statement was written before the Russian Revolution of 1917.—ED.

*hostis*—and were entirely without legal rights. Today by comity or treaty the alien enjoys practically the same civil capacity as the citizen. It is noteworthy that the guaranties of the Fourteenth Amendment apply to all persons within the jurisdiction of the states, and not merely to citizens.

The important right of immigration and settlement is not necessarily included in the civil capacity of the alien. In many countries the matter is not of sufficient importance to have called for special regulation, but where immigration assumes considerable dimensions the right has been qualified by restrictive legislation. Our own legislation is typical in that respect. In the absolute exclusion of Chinese laborers disabilities of race, class, and alienage are combined, and this legislation serves as a warning that the modern principle of equality is by no means of absolute operation.

4. *The emancipation from domestic subjection.* The common law of England practically reproduced for the wife the dependent status which the older Roman law assigned to all the members of the family except the head. It even aggravated the dependency by denying to the wife the capacity to perform disposing or binding acts (coverture; *feme covert*). It is significant that the old law of serfdom furnished to English lawyers analogies for the relation of husband and wife. The courts of equity managed, however, to give to the married woman a very considerable protection in the enjoyment of her property.

The law of coverture was taken over by the American states, together with such practical modifications as the system of equity jurisprudence had developed in England.

Legislative reform began about 1840, and in the beginning did little more than adopt and enact into statute law the doctrine of the courts of equity. Gradually it made the wife entirely independent of the husband. In this legislation England followed America, beginning her reform in 1870. In America the course of legislation extended over a very long period; Tennessee, as the last state, did not abandon the system of coverture until 1913. In those states which have on the whole adopted the Continental system of marital community of property rights the peculiar disabilities of coverture are likewise unknown.

It should be remembered that the coverture applied only to women living in marriage; that, in other words, the common law recognized no sex disability in the matter of civil rights.

In considering domestic subjection it is also necessary to refer to the status of the child, that is, the infant child, for parent and adult child are in law, except for purposes of inheritance, practically altogether strangers to each other. As a holder of property the infant child occupies a position of peculiar independence in the common law, for the father has neither usufruct nor guardianship (except the "socage" guardianship with regard to land which terminates when the infant attains the age of fourteen);<sup>1</sup> on the other hand, the father is entitled to the earnings of the child, and to this absolute right to the earnings corresponds no similarly absolute duty to support, for from this the father may relieve himself by emancipating the child and thereby surrendering the right to earnings.

The personal control of the father over the minor child is at common law almost unlimited; even an effectual criminal liability probably did not exist except in case of homicide, the policy of the law being very decidedly not to interfere with the exercise of domestic authority. There was thus a domestic subjection of the severest and most unqualified kind. This has been broken in upon only by very modern legislation, beginning with the criminal punishment of cruelty, and more recently establishing a system of public care of juvenile dependents. The development of this phase of law, which may be said to have started with the Illinois law of 1899, is in its very beginning, and the rights of the parent will undoubtedly more and more assume the character of a trust.

This completes the series of legal changes through which personal status has gone. Liberty and equality have received practically universal recognition, but this has come only in the nineteenth century. Race alone remains a sinister distinction which the law has not fully overcome, and which in some respects it even tends to emphasize, owing to the greater menace of foreign race invasion in modern times. The disability of the child, a transitory status, must of course remain, but the emancipation from the abuse of domestic power constitutes perhaps the most marked triumph of the right of human personality.

<sup>1</sup>The father was formerly regarded as the guardian of the child's personal property; see Blackstone, I, 461, and the act of 1070, which gave him the right to appoint a guardian for the child by deed or will.

II. *Freedom of Thought*

All American bills of rights give prominent places to religious liberty and the freedom of the press. The guaranties incorporated both the achievement and aims of constitutional struggles and philosophical theories of natural right. They represent political ideas directly contrary to the maxims of earlier statecraft. Until far into the seventeenth century it had been a commonplace of public policy that the safety of the state demands the control of opinion. With these historic facts in view we can better appreciate the step in advance which religious liberty represents, and yet in the course of the nineteenth century toleration, if not religious equality, has been established all over the civilized world, and belief and worship are nowhere any longer the subjects of penal repression.

As regards the press, Blackstone tells us that the art of printing, soon after its introduction, was looked upon in England as well as in other countries as "merely a matter of state" (*Commentaries*, IV, 152, note). Its control was part of the freely conceded jurisdiction of the Star Chamber. After the fall of the latter, its control simply passed to Parliament, which exercised it on similar principles. The essence of this control was that nothing was to be printed without previous license, and by the removal of this requirement in 1694 the liberty of the press was supposed to be established. In the course of the eighteenth century, however, a further struggle took place for greater freedom from responsibility, which resulted in the liberalization of the law of libel. Our bills of rights reflect this stage of development: they guarantee impunity for true matter published, but only if published with good motives. Here most of our constitutional guaranties stop; but the practice of the nineteenth century has proceeded far beyond this, and now, generally speaking, not only is truth an absolute justification, but the defense of privilege is recognized to the widest extent in every kind and form of public criticism.<sup>1</sup> The free expression of opinion on political subjects is guarded with possibly even greater jealousy than the freedom of art, literature, and science and of social thought and agitation.

<sup>1</sup>See Schofield, "Freedom of the Press in the United States," *Publications of the American Sociological Society*, Vol. IX, p. 67.



In view of the wide toleration of freedom of political agitation which public opinion demands, the law of sedition, even where not formally abrogated, has lost much of its practical importance; when in 1886 in England, in consequence of strong public labor demonstrations, prosecutions were instituted against prominent leaders, the instructions as to the constituent elements of sedition were so qualified that the jury could hardly do otherwise than render a verdict of not guilty (*Reg. v. Burns*, 16 Cox, 355; *Reg. v. Cunningham*, 16 Cox, 420; Russell on *Crimes*, I, 557-565). The law is equally obscure in America, where, as in England, the conditions under which government has been carried on for the last hundred years have rendered political repression unnecessary or inexpedient.

We have here a complete reversal of the public policies of former times, which yet had a show of plausibility in their favor; the experience of a great war shows how effectually after all for a time at least public opinion can be controlled by authority, and how much the action of the state in a certain direction can be strengthened thereby. That immediate political advantage is so readily sacrificed to the conviction that free expression of opinion is in the long run more wholesome to the constitution of the body politic is one of the most remarkable achievements of democracy and of education in public affairs. That the achievement is not altogether safe from attack and impairment is shown by the public attitude toward anarchistic agitation, as evidenced by the short-lived red-flag law of Massachusetts, an attitude comparable to that of those of our state constitutions which temper their toleration of religious dissent by creating certain disabilities for atheists.

The establishment of the right of personality and of freedom of personality and of freedom of thought are accomplished in the main by the removal of legal and other restraints, and the positive function of legislation is relatively slight; the advances in the protection of human interests which follow involve, on the other hand, a constant enlargement of the field of legislative activity and control.

### III. *The Repression of Unthrift and Dissipation*

Certain phases of this legislative policy are old or even antiquated; thus the formerly prevailing type of sumptuary legislation has disappeared. On the whole, however, the activity of the state against

the three great forms of unthrift—gambling, drink, and vice—has gained in incisiveness and extent, and its greatest development has taken place in the American democracy.

The relation of the state and the law to moral ideals is complex and peculiar. The main motive power of every political organization is self-preservation, which produces the type of the state best fitted for the maintenance of communal integrity. After some type has once successfully established itself and led to the predominance of one element of the body politic, the instinct for self-preservation again makes the interest of that element the ruling factor of state policy. Morality as represented in law thus becomes subordinate to, and an instrument of, the established order of things; and in all communities it tends to be identified with authority, the family, and property. The canons of justice and equity presuppose respect for these institutions, and purely ethical standards of conduct lie outside of the range of civil obligations.

In European systems of polity the place of morality was further determined by the position and the claims of the church. The Christian religion was based on ethical ideals; ethical thought and ethical aspiration were in consequence entirely dominated by religion, and the state considered that the preservation of public morals was not a secular function, but belonged to the church.

The common forms of moral laxity and dissipation were thus regarded as sins to be visited by spiritual penalties, and almost the entire law of sex relations, including marriage, fell in England to the province of ecclesiastical jurisdiction, and the marriage law has to the present day not been entirely secularized. It is also to be noted that non-forcible injuries were only gradually drawn within the cognizance of the King's courts; defamation (which was first an ecclesiastical offense) not until the seventeenth century, while fraud became a tort only toward the end of the eighteenth century.

It was only after the Reformation and the attendant relaxation of church discipline that evil practices not directly invading other persons' rights or public authority were drawn within the range of legislative policy; the first attempts to repress gambling and prostitution date from the reign of Henry VIII, and from the reign of Edward VI on the liquor trade is subjected to the régime of the licensing system.

The attitude of the English law (and that of Continental countries is similar) toward gambling, drink, and vice has remained tolerably

fixed for centuries; the liquor business has been the subject of constant restrictive regulation, while gambling and vice were placed beyond the pale of legal protection, but otherwise tolerated as long as outwardly disorderly practices were avoided. An attitude of indulgence toward the common human weaknesses became part of the established order of things.

It is interesting to observe how with the advance of democracy the legislative policy toward these evils becomes gradually more aggressive. The mass of the people struggling for material prosperity prize the "middle-class" virtues of habits of industry and domestic regularity, and they seek to impress their ideals upon the legislation which they control. Thus liquor becomes a conspicuous issue in politics; absolute prohibition, a radical interference with personal liberty, is first introduced as a legislative policy; the same policy is applied to gambling, and particularly to lotteries, previously used freely as a means of raising funds for public purposes, and in many states the prohibition is made part of the fundamental law; and for the first time a determined crusade is instituted to suppress prostitution.

The standards of this "morals" legislation are perhaps all the more advanced, as the standards of enforcement are not equally high. This may be due to our peculiar governmental organization, which divorces legislative power entirely from administrative responsibility. The formal declaration of policies is insisted upon irrespective of whether they can be carried out faithfully or even with tolerable success; indeed, the advanced policy is sometimes consented to only upon the tacit understanding that in actual administration it will be somewhat relaxed. The result is inevitably a certain demoralization of governmental standards, but the system makes possible an insistence upon high abstract moral ideas, which in other countries is deemed impracticable, and which all the time operates as an educative influence.<sup>1</sup>

<sup>1</sup>Under the German ideal of scrupulously correct statutes strictly enforced legislation is likewise an educating influence, but of a different type; it is not meant to represent an ideal to be ultimately attained, but a practical norm of conduct; just and fixed rules, the most powerful and insistent expression of the social conscience, are to operate as a sort of secular catechism, and the sense of formulated boundaries is relied upon to check the impulses of unsettled character—an education that consists in the subordination of individual tendencies to general standards. This point of view is admirably developed in a recent German treatise (F. W. Förster, *Schuld & Sühne*, 1911).

Even with its imperfect operation, however, this phase of legislative policy carries with it encroachments upon personal liberty which would not have been ventured upon by less democratic systems of government.

#### IV. *The Protection of Public Health and Safety*

The large amount of health and safety legislation which fills modern statute books represents less a change of legislative policy than a change of conditions that had to be met by an extension of state control. In principle the exercise of public power for the protection of life and limb is old-established, but prior to the nineteenth century there was relatively little occasion for its practical application. The nineteenth century brought two conditions which revolutionized the need for public control: the pressing of newly invented mechanical forces into the service of industry and the progress of science in discovering the causes of disease and their remedies. The imperative necessity of developing economic resources retarded adequate protection against mechanical dangers until it was possible to combine safety with the effective carrying on of industry; the former had to yield to the latter; this is well illustrated by the history of mining legislation.<sup>1</sup> Sanitary legislation encountered resistance on the part of personal and property rights as well as of business interests by reason of the widespread skepticism regarding the reality of the alleged dangers or the efficacy of the proposed remedies, but the English law of 1848 and the New York law of 1857 firmly established the principle of an elastic administrative control, and the recent American so-called eugenics legislation indicates the long distance that we have traveled in the direction of state interference with private affairs. Living under free institutions we submit to public regulation and control in ways that would appear inconceivable to the spirit of oriental despotism; it is well known what deep-seated repugnance and resistance of the native population to the invasion of their domestic privacy and personal habits English health officers in India have to overcome in order to enforce the sanitary measures necessary to prevent the spread of infectious or contagious disease. Oriental systems of polity act more powerfully upon the habits of individual life

<sup>1</sup>R. G. Galloway, *History of Coal Mining in Great Britain*, 1882.



than modern governments do; the primal need of the community for the perpetuation of its own existence through marriage and offspring is more effectually secured in India and China than in Western Europe; but the sanction is custom and not law; and in the same way the sanitary régime of the Old Testament seems to have been enforced by spiritual threats and not by secular penalties. Modern policy makes legislative compulsion coextensive with the reciprocal dependence of men upon each other's standards of conduct for the preservation of the health and safety of all, and with the progress of invention and of science there seems to be hardly any limit to that independence. Our modern sanitary laws are laws in the real sense of the term, enforced by the power of the state. As such they represent, if not a new policy, yet a new legislative activity and function.

### *V. The Growth of Social Legislation*

The development of phases of legislative policy thus far traced shows two main tendencies: the steady growth in the value placed upon individual human personality and the shifting of the idea of the public good from the security of the state and established order to the welfare of the mass of the people. The growth of social legislation combines those two tendencies. By the term social legislation we understand those measures which are intended for the relief and elevation of the less favored classes of the community; it would thus be held to include factory laws, but hardly legislation for the safety of passengers on railroads.

The lower classes (as the term was formerly commonly used) became the object of special legislation in England after the Great Plague; but the policy of this early legislation was repression and not relief. The first great systematic relief measure was the English Poor Law of 1601 (43 Elizabeth, chap. 2); it is worth noting that the principle of taxation by state authority for the relief of the poor was not introduced into France until three hundred years later, in 1905, antecedent to the separation of church and state. In the beginning of the nineteenth century England inaugurated a new phase of social legislation by her child-labor law of 1802, followed by a series of other factory laws.

Yet until about twenty years ago the term social legislation was generally unfamiliar and conveyed little meaning even to students of

reform movements. The word came from Germany, and there originated about the beginning of the eighties.

More particularly the new term social legislation was associated with the workmen's insurance measures announced by the message of November 17, 1881, submitted by the German Emperor to the Reichstag, which provided relief in form of pensions for sickness (1883), accident (1884), and invalidity and old age (1889).

The purpose of these measures as proclaimed by the imperial message was to counteract social democratic agitation and to supplement the repressive law of 1878 by positive and constructive state action. Other European countries gradually enacted similar legislation; in England compensation for industrial accident was introduced in 1897, old-age pensions in 1908, and insurance against sickness and unemployment in 1912. The American states have so far approached only the problem of compensation for industrial accident; since 1910 about three-fourths of the states have enacted measures of that kind.

What was the special feature of this new legislation that marked it as a new departure in legislative policy? It was that relief changed its character. Poor relief had been a matter apart from industry; it had stigmatized the recipient and placed him under disabilities; the policy of the English poor-law reform of 1834 had been to make it in addition distasteful and repellent (indoor relief). The new pension or compensation system carried no stigma or disability, and by its conditions or terms rather seemed to be in the nature of the discharge of a debt that the community owed to its members, a deferred payment for previous inadequately rewarded services, or a compensation for some kind of injustice suffered. It realized the idea of a "respectable provision unattended with degradation" first put forward in 1837<sup>1</sup> and again advocated in the Minority Report on poor-law reform under the name of an "honorable and universal provision." In Germany the entire legislation, moreover, incorporated important features of insurance. The recipient of pensions or other allowances upon an insurance basis takes them, morally as well as legally, as a matter of right, and would be beholden to the community merely for setting the plan in operation and administering it. Every contribution from the employer or from the community alters the nature of the allowance, and the tendency in England and America has been to

<sup>1</sup> See Rose, *Rise of Democracy*, p. 100.

relieve the beneficiary from any contribution and to throw the entire burden either upon the community (old-age pensions) or upon the employer (workmen's compensation). However free from stigma, the provision is thus yet in the nature of relief.

In Europe relief legislation of the 'advanced type is at present as firmly established as sanitary or safety legislation, the defects of which it in part supplies, while America is only just beginning to develop that part of the system which connects most closely with the remedial methods of the common law.

Even in Europe a sharp line is still drawn between relief and the larger policy of using the power of the state to alter the economic terms of the labor contract. An entire readjustment or reconstruction of the economic relation between the classes is not as yet, generally speaking, considered as part of a practical legislative program.

Not so very long ago this larger program would have been sufficiently condemned by being characterized as socialistic, and even at the present time there is an instinctive perception that the most liberal policy of relief is in principle still very far removed from an attempt to control economic relations under normal conditions.

We are, however, quite accustomed to one form of relief which is really undistinguishable from social reconstruction, and that is the legislation dealing with children. It is well to remember that factory laws began everywhere with the regulation of child labor, and that that regulation always went hand in hand with efforts to secure to the child some measure of education and instruction. And with regard to education, the American states, at a period when they represented the most individualistic type of political and economic organization, pursued a progressively socialistic policy, shifting more and more the financial burden of education from the family to the community. While the existence of universal suffrage has given to this form of communism a political justification, the present movement for vocational instruction is significant in frankly abandoning this basis and embarking upon schemes of economic reconstruction, the consequence of which can hardly be foreseen.

As factory legislation in England began with the regulation of the employment of children, so it advanced farther along the line of least resistance by restricting the hours of labor of women. When the bill which resulted in the act of 1844 was agitated, the men desired the

like reduction for themselves, but were satisfied that the legislation should be confined to women in the hope, which events justified, that the legal reduction of women's work would accomplish without legislation the same purpose for men.<sup>1</sup> The act of 1844 had been preceded by a report calling attention to the special physical considerations which made the restriction desirable for female employees.<sup>2</sup> Whether exclusively on this ground or not, the state from now on extended its guardianship in the matter of industrial labor over both women and young persons. A similar development took place in Germany, where a maximum work-day for women in factories was established in 1892.

In the United States the regulation of women's hours of labor has furnished the main battle ground for conflicting theories of constitutional right and power. The course of decisions proved on the whole favorable to state control. . . .

As legislation for women advances from the ten-hour day to the Saturday half-holiday, to the eight-hour day (established for the District of Columbia in 1915), to the total prohibition of night work, and to the regulation of wages, the narrow foundation of the old-established grounds of the police power will become more and more untenable, and courts will be forced to recognize in such laws measures of social and economic advancement, and not merely measures for the protection of health or morals. It will then become necessary to scrutinize the ground of differentiation between men and women, and particularly to examine whether such differentiation implies inferiority, as the words used by Justice Brewer may seem to indicate. At a time when women are demanding equal political rights it does seem incongruous to insist unduly upon infirmities inherent in sex, and it will be fairer to support legislative discrimination for their protection by arguments not derogatory to other claims. Such arguments can well be brought forward without specious pleading.

Both from an economic and from the historical point of view the status of women is constitutionally different from that of men: economically, because the temporary and adventitious character of women's industrial work, due to the effect of marriage upon their industrial status, handicaps their capacity for combination, and hence their capacity for efficient self-help, and further because the state has a distinct interest in conserving part of a woman's time and strength

<sup>1</sup> Hutchins and Harrison, *History of Factory Legislation*, p. 186.    <sup>2</sup> Ibid. p. 84.



to enable her more adequately to perform her non-industrial functions, her duties to the home and the family, and to render her indispensable aid in the furtherance of the state's child-welfare policies; historically, because centuries of economic dependence and the universal conventional discouragement of habits of self-assertion necessarily removed women from those ideals of individualism which were in America supposed to have crystallized into constitutional rights and limitations upon the legislative power. It is true that these conventions with regard to women have partly been altered; but coincident with their advance toward greater independence has been a general modification of the ideals of individualism. Nothing could be more characteristic of that coincidence than the fact that the legislature of Illinois, on March 22, 1872, passed an act declaring that sex should not be a bar to any occupation or employment, and five days thereafter, on March 27, 1872, passed another act forbidding the employment of women in mines—enactments opposed to each other upon a mechanical view of liberty, and yet quite harmonious in spirit as making for a larger freedom of women. It is obvious that upon any large view women stand on a different footing from men as regards the exercise of legislative protection. In all European countries and by the international conventions regarding industrial labor this has been recognized. It follows that a very much farther reaching control over women than we have at present would leave unprejudiced the problem of legislative policy with reference to adult men. . . .

The state has thus far departed very little from its attitude of neutrality in the struggle between capital and labor. Of the things that labor most desires, naming them in the order of the strength of the desire—chance of employment, security of employment, better remuneration, lessened toil, fairness of methods, safe and sanitary conditions, and relief in distress—it appears that even the most advanced type of European social legislation undertakes to secure less than one-half, being the half less prized by labor. If the reason for this is that the conditions for radical improvement are or are believed to be beyond legislative control, or that the effectual remedy is unknown, legislative inactivity cannot be said to be a matter of deliberate policy of self-imposed limitation, but merely the consequence of imperfect power and knowledge, and advance in legislation would merely wait upon advance in knowledge and efficiency. At any rate,

the possibility of embarking upon new policies seems to be fore-shadowed both by the growing insistence of what is called the new social conscience and by the fact that the widest possible scope of state control is the avowed demand of a political party which is constantly growing in strength.

If this brief outline has correctly characterized the various aspects of social legislation and the stages in its progress, it is also easier to understand the position of American courts. In their hostile or suspicious attitude toward legislation regulating hours of labor and payment of wages which they regarded as involving merely economic issues they resisted the beginnings of a novel function of state control, and if they nullified even reasonable and necessary measures it was perhaps because they were unwilling to concede the first steps in a development the scope of which they could neither define nor foresee, and the full course of which must justly have appeared to them as revolutionary.

But a larger view of changes and developments than courts are in the habit of taking must also make us extremely skeptical with regard to the fundamental assumption underlying their method of approaching legislation. Into the general clauses of the constitutions they have read a purpose of fixing economic policies which, however firmly rooted in habits of thought or structure of society, are by their very nature unfit to be identified with the relatively immutable concept of due process. Where the makers of constitutions did intend to establish policies, they did so in express terms: freedom of speech and press, religious liberty, the favor to the accused in criminal proceedings—these we find guaranteed in specific clauses; and nothing was guaranteed that had not at some time been a live issue. It was foreign to their minds to foreclose issues that no one could foresee. Due process was an idea centuries old and meant to last for centuries; the idea that it should be subject to amendments, qualifications, or exceptions is utterly incongruous. That the clause should have been seized upon to protect policies which to the courts seemed essential to the social structure they were used to was perhaps not unnatural. In any event, the attempt of the courts to check modern social legislation by constitutional principles can be properly estimated only if we recognize in it the exercise of a political, and not a strictly judicial, function.<sup>1</sup>

<sup>1</sup> See Francis B. Sayre, *Cases on Labor Law*. Cambridge, 1922.—Ed.

35. THE MEANING OF PRINCIPLE IN LEGISLATION<sup>1</sup>

By contrast with the common law, every proposition of which claims to be a dictate of reason and logic, statute law is conventional in the sense that in many cases it merely represents the legislator's free choice between a number of different possible and perhaps equally reasonable provisions. The natural desire to avoid the charge of arbitrariness in legislation produces a strong tendency to follow precedents, and, in consequence, a certain uniformity of provision with regard to relatively indifferent matters which has nothing to do with principle, and which is yet likely to impose itself upon legislation with more than the force of principle. In every jurisdiction it is possible to cite instances of this kind in which the mere force of habit supports practices which have nothing else to recommend them; witness the usual clause at the end of a New York statute: "this act shall take effect immediately," or the requirement which is common in Illinois that the governor approve vouchers for expenses which are charges against appropriations. Such practices offer little general interest.

So long as legislation claims to produce law it must also strive to realize in its product that conformity to principle from which law derives its main sanction and authority. The difference between common law and statute law in this respect, however, is that while the data of the common law are fixed and beyond conscious and deliberate transmutation, those of legislation vary with varying purposes and conditions. While principle in common law simply stands for logic, reason, and established policy, its meaning in legislation is far more complex. We can hardly say more to begin with than that it means a settled point of view, and any closer analysis requires careful differentiation.

At the opposite ends of the various classes of considerations that move the legislator we should place constitutional requirement and policy. The constitutional rule must be obeyed no matter what opinion may be entertained of its wisdom, and is thus withdrawn from argument except for the purpose of interpretation. It may be absolutely conventional, as, e.g., in the requirement and wording of an enacting clause, or convention and principle may be mixed, as in specifying brief terms of office, or it may state a principle pure and

<sup>1</sup> By Ernst Freund. Adapted from *Standards of American Legislation*, pp. 215-221, 248-256, 260, 270-273.



simple, as in the rule against *ex post facto* laws or against double jeopardy. The mandatory character of the rule is affected by these differences only in the varying latitude of constitutional construction.

Policy, on the other hand, represents the freedom of legislative discretion. No matter what array of facts and arguments we may bring to bear upon certain problems, we must recognize that in the present state of human thought and knowledge their determination is controlled by considerations which lie beyond the forum of compelling reason, and depends upon fundamental differences in habits and ideals. Strict or liberal divorce laws, high license or prohibition,<sup>1</sup> free trade or protection, free or regulated business, the limits of combination and of competition, form or informality in legal acts—these constitute issues with regard to which opinions of men will continue to differ, and which for the present must therefore be left to the domain of policy.

Contrast with these the legislative attitude toward polygamy, toward monopoly, toward gambling, or toward vice, and we shall find these latter policies as firmly established as any common-law principle. The common law embodies, in addition to reason and logic, also a great deal of policy, as, e.g., the pronounced favor to the accused in criminal procedure. That policy has in America been transformed into a constitutional rule, as has been the more modern policy of freedom of thought and of religion; there are even instances in which highly controversial policies have been enacted into constitutional provisions in order to withdraw them from legislative change; witness the prohibition<sup>1</sup> clauses in the constitutions of Kansas and Oklahoma.

Where this is done, it is not inaccurate to say that policy has been changed into principle; we then simply attribute to principle the meaning of settled policy. In this sense any policy adopted by the legislature becomes the principle of the statute enacted to effectuate that policy—principle to the extent that it controls or should control the details of provisions and their application and interpretation. Considering the statute without reference to these details, we should of course realize that we deal with legislative policies and not with principles of legislation in the more specific sense. The legislative determination of policies is generally, and in a sense justly, regarded

<sup>1</sup> These references to state prohibition policies were written prior to the passing of the eighteenth Federal Constitutional Amendment.—Ed.



as a matter of free discretion ; in any event the considerations guiding that discretion are ordinarily not counted as falling within the province of jurisprudence.

Principle as applied to legislation, in the jurisprudential sense of the term, thus does not form a sharp contrast to either constitutional requirement or policy, for it may be found in both ; but it rises above both as being an ideal attribute demanded by the claim of statute law to be respected as a rational ordering of human affairs ; it may be a proposition of logic, of justice, or of compelling expediency ; in any event it is something that in the long run will tend to enforce itself by reason of its inherent fitness, or, if ignored, will produce irritation, disturbance, and failure of policy. It cannot, in other words, be violated with impunity, which does not mean that it cannot be or never is violated in fact. Perhaps the best criterion of principle is that reasonable persons can be brought to agree upon the correctness of a proposition, though when they are called upon to apply it their inclinations or prejudices may be stronger than their reason.

The question is whether our legal science has developed an adequate system of principles of legislation in this sense.

Now and then our constitutions specifically express a principle, so particularly with regard to criminal legislation, the rule against double jeopardy, and the rule against retroactive operation (*ex post facto* laws) ; but the bulk of constitutional provisions crystallize historic or modern policies and not permanent principles.

Where legislation is attacked in courts as violating fundamental principle, reliance is always placed upon the Fourteenth Amendment, less commonly upon the equal-protection clause than upon the due-process clause. So far as equality means absence of arbitrary discrimination, it is almost undistinguishable from due process. So far as it is opposed to class legislation, a distinction should be made : equal justice between classes is of the essence of justice, and if in practice justice is not the same for rich and poor this is merely an inevitable effect of economic conditions which it is beyond the power of the law to remedy ; equal legislation for all classes, however, so far as a definite meaning can be attached to the idea, is more in the nature of a policy than of a principle, and cannot be said to be firmly established. There remains, then, due process of law as the main, if not the sole, guaranty of principle in legislation.

Due process is so general a phrase that for its content we turn to judicial interpretation. The Supreme Court refers us to a gradual process of judicial inclusion and exclusion (*Davidson v. New Orleans*, 96 U.S. 97), and declines a compendious definition, which, indeed, if it were to claim authoritative value, would be worse than no definition at all. In the enormous number of decisions, however, that have applied the test of due process to legislation we might justly expect, after a lapse of forty years, some beginning in the working out of a system of principles. Unfortunately, opinions in constitutional cases rarely go beyond rhetoric and generalities; and quotations from similarly elusive pronouncements take the place of searching analysis. We are referred to reasonableness as a criterion of validity, as if "reasonable" were not the very negation of scientific precision. Whatever may be the merit or demerit of the actual decisions upon the validity of legislation, the theory of constitutional law as found in the opinions interpreting due process of law is perhaps the least satisfactory department of American jurisprudence. We ought to know to what extent due process means definite principles, and to that extent these principles should be judicially stated; and we ought to know, on the other hand, to what extent principles are beyond judicial enforcement and must be left to legislative method and practice.

*Prohibition.* It is a true principle of legislation that a remote or conjectural danger, or the danger of fraud or abuse, does not justify the entire suppression of a legitimate and valuable interest. That interests of no intrinsic economic utility may be sacrificed in the exercise of the police power is demonstrated by the course of prohibition legislation; the consumption of intoxicating liquor represents normally only pleasure, indulgence, and license, which are not generally counted as assets of positive value. Where intoxicating liquor serves mechanical, medicinal, or sacramental purposes, it represents an essential interest which is respected in legislative practice.

### *The Principle of Standardization*

Common-law rules carry their justification in the reasoning upon which they are based, but legislation generally involves a choice between a number of rules of equal or of equally doubtful equity, and thus presents the problem of avoiding the appearance of arbitrariness

in fixing upon some particular provision. It is therefore desirable that conclusions be reached as far as possible upon an objective and intelligible basis, and that this basis be not needlessly varied from statute to statute. Standardization thus represents a definite, if comprehensive and far-reaching, ideal in legislation, and while it enters into every other principle, it does so as a distinct and additional attribute. If liability needs correlation, any system of correlation will gain by being standardized, and so with regard to classification, the protection of vested rights, and so forth.

The principle of standardization has four main applications or phases in the making of statute law: conformity to undisputed scientific data and conclusions, the working out of juristic principles, the observance of an intelligible method in making determinations, and the avoidance of excessive or purposeless instability of policy.

1. *Conformity to scientific laws.* The bulk of modern legislation deals with social, economic, or political problems. These problems are not amenable to the same methods of treatment as the problems of physical science, and few of the conclusions offered in the name of the social sciences can claim finality or acceptance as absolute truths. Those who insist that the legislature is bound to defer to experts do well to remember that, of the great social measures of the nineteenth century, the factory acts were carried against the protests of economists, while the public-health laws were largely based on theories of the spread of disease which are now rejected. So far as undisputed conclusions are available, they ought to be accepted as a basis for legislation, but even this modest demand represents an ideal rather than an actuality, for even if skepticism, prejudice, and selfish interest did not count as factors, the limitation of available resources must often stand in the way of the realization of policies conceded to rest on an indisputable foundation. It is sufficient to refer to laws concerning taxation, financial administration, and charity and correction, which admittedly at best approximate the recognized scientific standards. Where legislation involves the operation of the physical sciences (health, safety), there is a greater readiness to submit to authority, and a failure in this respect will usually be due to inadequate means.

These are commonplaces; no one speaking of scientific legislation could possibly ignore standardization in this sense. In mapping out a science of legislation, however, it would hardly do to claim as be-



longing to its province all the social any more than all the physical sciences that have to be considered in carrying out legislative policies. It is true that legislation in a sense controls and fashions the former, while it merely applies the latter, and the legislator is therefore likely to feel with regard to the former a responsibility which easily translates itself into a sense of duty to form independent opinions, while in matters of sanitation or engineering he would defer to expert authority.

Nevertheless, a science of legislation desirous of establishing a status of its own would treat the data of the social sciences as lying outside of its own sphere and consider that its task begins only when their conclusions have been reached and formulated. The task would then be the technical one of translating a policy into the terms of a statute and judging as a preliminary matter whether such translation is practicable. The first of the four phases of the principle of standardization would therefore mean chiefly a draft upon other sciences, and, as part of the science of legislation, would express itself only in methods of organization and operation calculated to make sure that legislation is not enacted in ignorance of relevant data that are capable of being authoritatively established. To illustrate: the valuable work which is being done at present to find rational and "scientific" bases for rate-making, for tax valuations, for public-service requirements, and generally for terms of franchise grants is not the work of legal experts, but of economists, accountants, and engineers; but the principle of standardization demands at the very least the adoption of legislative methods which give an opportunity for this kind of work and information and bring its results to the notice of the legislators.

2. *Standardization of juristic data.* The division of sciences is a practical matter, and it is for practical purposes that we should refuse to encumber the science of legislation with the tasks of social, economic, or political science. The problems of jurisprudence are, however, so closely related to the technical problem of legislation that, in so far as legal science has established or is capable of establishing settled conclusions, they are properly treated as part of the science of legislation and should contribute to its standardization. Unfortunately, hardly any systematic thought has been given to problems of jurisprudence in their constructive aspect; the law of evidence furnishes perhaps the only conspicuous exception. Littleton's *Tenures* has been



extravagantly praised as the most perfect work written in any science; but in treating the law as purely static it has set a model to all subsequent legal literature. Where Blackstone wanders off into critical estimate he becomes absurd, as where he speaks of the woman laboring under the disabilities of coverture as a favorite of the laws of England. Professor Gray's *Rule against Perpetuities* has no superior, if any equal, among American legal writings, but his treatment of the problem of how to deal constructively with settled property is negligible and, so far as it goes, superficial; his condemnation of spendthrift trusts in his essay on *Restraints on Alienation* manifests a fine virility of legal philosophy, but is hardly an objective estimate of a difficult and delicate legislative problem. It is only in recent years that technical questions of land legislation have been discussed critically and constructively in English legal reviews and parliamentary papers or reports; the reforms of the nineteenth century passed almost without literary comment. In America the critical treatment of technical legislative problems is even more meager and unsystematic.

It must be conceded that some of the most fundamental problems of jurisprudence seem as yet incapable of any other than a purely empirical or conventional solution. Which is preferable in legal acts, form or informality? What should be the extent of the protection of bona fide purchasers? What limitations and restraints upon the freedom of property should be conceded? Should a consideration be required to make a promise binding? Should the right of corporate organization be conceded for all legal or only for specified purposes? No answer can be given to any of these questions that is "scientifically" or even empirically indisputable; in the construction of civil codes they are treated as questions of policy, determined by a mutual balancing of conflicting considerations.

On the other hand, practically undisputed conclusions have been reached with regard to other subjects, perhaps mainly on the adjective side of the law (penalties, methods of enforcement, etc.), wherever any serious thought has been given to these subjects. Thus informers' shares and multiple damages survive only where legislation is in amateur hands. The range of these settled conclusions will be greatly extended when once systematic study shall be devoted to the technique of statute law. In many cases it can be demonstrated that the preference of one formulation to another will without alteration

of substance make a provision practically more available for its intended purposes. The acceptance of the better form should then be a matter of course.

In discussing the terms of a statute there can ordinarily be no difficulty in distinguishing juristic considerations from other considerations of expediency, which belong to political science rather than to jurisprudence. Suppose some legislative policy or object is accepted as intrinsically desirable, it is still necessary to take into account the operation of adverse factors: the likelihood of public resistance due to widespread hostile sentiment (class, sectional, religious, national sentiment), the likelihood of private resistance and consequent difficulties of enforcement (inquisitorial methods of tax assessment), the likelihood of administrative resistance, where there is a disharmony between legislative and administrative standards. It is also necessary to have a proper appreciation of the unintended reactions of the proposed legislation resulting either from its normal operation (housing legislation and increased rents), or from the conditions of enforcement (white-slave legislation and blackmailing; declaring common-law marriages void and thereby rendering issue illegitimate), or from attempts at lawful evasion (marriage or divorce outside of the state; factory laws increasing tenement labor), or from illegal evasion (prohibition leading to increased consumption of the more easily concealed but also more harmful kind of liquor; closing of houses of prostitution and scattering of vice; more stringent marriage laws and increase of illegitimate births).

Under careful methods of legislation these considerations are not likely to be overlooked, but it is not easy to standardize the weight which should be given to them respectively, and in any event they do not (except as they bear upon technical conditions of enforcement) fall within the province of the jurist. There is, however, one consideration which, while not technically juristic, has such an intimate relation to the entire nature and purpose of law that in discussing the principle of standardization it cannot be ignored: that is, the observance of a certain order of transition in advancing to new policies or standards.

American legislation has sometimes violated this principle, but the very violations have served to illustrate its correctness. In the fifties of the last century the country was not prepared to accept entire prohibition as a method of dealing with the evils of intoxicating liquor;

its establishment by statute necessarily produced lawlessness. In 1893 a general eight-hour law for women (had it not been declared unconstitutional) would have been as unenforceable as an eight-hour law for all persons employed in any kind of service would be today. The status of unmatured and precocious standards in our legislation has been explained before, and it has been pointed out that it is, generally speaking, the function of legislation to remedy grievances and correct abuses, and not to reconstruct society *de novo* or to force standards for which the community is not prepared. In practice the observance of this principle is ordinarily a matter of course, but it should be emphasized that it is of the very essence of the idea of law that progress should be gradual and orderly, and that violent and extreme change, even if in the right direction, must produce disturbance and a sense of insecurity.

3. *The observance of a definite method in reaching determinations.* In matters not susceptible of scientific demonstration, when either of two different solutions of a problem can equally claim to be reasonable, arbitrariness in reaching conclusions can be best avoided by adherence to intelligible and settled methods which insure a reasonably constant relation between determinations on cognate matters, each of which taken by itself must be the result of compromise or of free choice. This satisfies at least the strong and universal demand for order and proportion; and the danger of overlooking this requirement would hardly arise were it not for the fact that the legislature deals with related problems by distinct and disconnected measures.<sup>1</sup>

4. *Stability of policy.* Standardization should mean finally the avoidance of instability of policy. Where policies are really contentious, an abstractly undesirable degree of variability is perhaps an inevitable result of democratic institutions. Moreover, the American practice of introducing new legislative ideas in the form of tentative statutes which will be amended repeatedly until satisfaction is obtained leads to an appearance of unsteadiness and lack of purpose when in reality there is merely experimentation. But apart from this, European standards cannot be applied to American legislation so long as we deliberately prefer an unconcentrated system of legislative initiative to a practical government monopoly in that respect.<sup>2</sup>

<sup>1</sup> For examples see Freund, *Standards of American Legislation*, pp. 256 ff.—ED.

<sup>2</sup> *Ibid.* pp. 260 ff.



*Constitutional Principles*

The principles so far discussed are not recognized by our constitutions, except that legislation grossly violating them may, in extreme cases, be held to fall short of due process of law. On the other hand, our constitutions do recognize two other fundamental principles of legislation: the protection of vested rights and equality. The constitutional protection of vested rights has not been adjusted in a satisfactory manner to the supposed overriding claims of the police power, but is generally respected in legislative practice. The principle of equality has, on the other hand, to contend against the unceasing demand for legislation confined to special classes and subjects.

Where peculiar conditions demand specific remedies, or where the public interest is involved in varying degrees, or where there are special problems of administration and enforcement, discrimination or differentiation may more nearly approximate the demands of justice than a mere mechanical equality, and class legislation may then be in perfect harmony with the equal protection of the law. Very often, however, the restriction of legislation to a particular group merely means the following of the line of least resistance: there is a strong demand for relief on the part of, or with reference to, one particular calling, industry, or business, and while the same measure is capable of more general application, it has not sufficient strength or support to carry as a general policy, or the general policy meets determined opposition on the part of one or more groups claiming exemption, which is granted. It is this kind of class legislation which is opposed to the spirit of constitutional equality and against which some American courts, particularly the Supreme Court of Illinois, have set themselves. The attitude of these courts has put some check upon loose practices of special legislation which are liable to great abuse. At the same time it makes the framing of legislation a difficult and hazardous undertaking. The standardization of all relevant elements of differentiation would afford an ideal solution of the difficulty; but neither legislative practice nor judicial control has been so far able to standardize. And it is safe to say that no scientific standard could maintain itself against the strong political pressure for special legislation which will always find a plausible plea for which it may hope to gain judicial approval. The tendency will be encouraged by the tolerant



attitude of the Federal Supreme Court: the solitary condemnation of the anti-trust law of Illinois, by reason of its exemptions (184 U.S. 540), has been followed by an unvarying deference to superior local knowledge of local conditions. Such recent measures, on the other hand, as the workmen's compensation acts, the minimum-wage laws, and the latest types of factory and child-labor laws show a careful survey of the entire field and correspondingly careful discrimination; and it is from systematic legislation of this kind that we may expect superior standards of differentiation.

We are so accustomed to identify the term "constitutional" as applied to legislation with "judicially enforceable" that it would be unwise to give the term any other meaning. A system of principles of legislation as above outlined should not therefore aim to receive in its entirety the status of constitutional law. Nor could anyone undertake a priori to state which principles are fit to be accepted as mandatory rules. The principle of conserving values, of making criminal offenses specific, of joining essentially correlative rights and obligations, might advantageously be enforced by the courts, while the more remote phases of correlation as well as most of the desiderata covered by the term "standardization" represent ideals rather than imperative essentials of legislation. The injustice which results from their violation is of the kind which we associate with the imperfection of human institutions. An attempt to formulate specific propositions would readily indicate to what extent principle is capable of being raised to rule, but there is no present prospect of so comprehensive an undertaking. If courts could be persuaded of the existence of more specific principles than those with which they operate, their decisions would speedily reflect the effect of those principles which are capable of judicial enforcement.

From a wider, and particularly from a constructive point of view, judicial enforceability is, however, by no means a necessary attribute of principles; on the contrary, many principles would lose much of their force if applied inflexibly. The life of the state cannot well be bound in rigid formulas, and it is in a sense an advantage of extra-constitutional over constitutional principles that they may yield in an emergency. The safeguard of the principle in normal conditions must be found in methods that operate antecedently, and the experience of other nations shows that such methods can on the whole be

made reliable and effective. Even the operation of constitutional rules, while sufficiently binding to create at times inconvenience, will yield under the stress of circumstances, and is therefore not as absolute in practice as in theory.

### 36. CONSTRUCTIVE FACTORS<sup>1</sup>

#### *The Courts as Constructive Factors*

The function of the courts is to test and judge legislation; not to frame it. We can no more expect that the courts will give us an entire system of principles of legislation than that they will give us a code of private conduct. If then we think of the courts at all as constructive factors, we must bear in mind their limited opportunities. Where the legislative standard is not intolerably defective, they are, generally speaking, powerless to raise it, and in the absence of a corrective jurisdiction a court will feel neither under any duty nor at liberty to volunteer suggestions for improvement. Constitutional limitations enforced by the courts will therefore never produce any but the most rudimentary principles of legislation.

The great opportunity of courts lies in construction, both statutory and constitutional. Construction is essentially supplementary legislation, and it was the recognition of this fact that has made codifiers jealous of the judicial power to interpret, which they sought to supersede by prescribing a recourse to the source of legislative authority in cases of ambiguity or doubt. Statutory construction is, however, inseparable from adjudication, and ultimately the courts are sure to regain and retain it; in Anglo-American jurisprudence no attempt has ever been made to deprive them of it, and in America the power of constitutional construction has been added. The ambiguities of language afford constant opportunity for the exercise of a praetorian power of supplementing the letter of the law, and the spirit of construction will frequently determine the living principle of statute or constitution.

#### *Legislative Practice as a Constructive Factor*

In European countries in which legislation is entirely uncontrolled by the courts, its quality is, generally speaking, higher than it is in America. This is undoubtedly the judgment of all who have had

<sup>1</sup> By Ernst Freund. Adapted from *Standards of American Legislation*, pp. 274-275, 287-290, 300-309.

occasion to institute comparisons. Such a comparison should not have primary reference to the social, economic, or political content of laws. There may be ground for believing that our election laws, our married women's acts, our juvenile court laws, and perhaps others are more advanced than those of France or Germany, and if our social legislation may seem backward, that fact is due to reasons which have very little to do with the problems here discussed. Nor should attention be directed merely to matters of style which, even if we give them all the importance they deserve, are after all a secondary consideration. But we should take as a standard of comparison those juristic and technical features of legislation which in France and Germany form the subject-matter of what is called administrative law, taking the term in the wide sense of covering all matters upon which officials have to act in carrying out and enforcing the law. We should, in other words, apply the principles which have been stated (in the foregoing section) and others of the same nature, to modern statutes abroad and to our own statutes and determine where they are better observed, where there is better correlation or standardization, where there is a more scrupulous regard for vested rights or for procedural protection.

It would not be a difficult matter to demonstrate the superiority in these respects of European legislation to our own, nor would there be much doubt as to the reasons for this superiority. The striking difference between legislation abroad and in this country is that under every system except the American the executive government has a practical monopoly of the legislative initiative. In consequence, the preparation of bills becomes the business of government officials responsible to ministers, these government officials being mainly, if not exclusively, employed in constructive legislative work. In France and Germany the government initiative of legislation has been established for a long time and the right of members to introduce bills is hedged about and practically negligible.

There are two main reasons why executive initiative should lead to a superior legislative product. The one is that it is the inevitable effect of professionalizing a function that its standards are raised. The draftsman will take a pride in his business and in course of time will become an expert in it. He learns from experience, and traditions will be formed. This, of course, presupposes that he is a

permanent official. In addition, he will be responsible to his chief, who naturally resents drafting defects that expose him to parliamentary non-partisan criticism. In Germany the best juristic talent that goes into the government service is utilized for the preparation of legislative projects, and these are regularly accompanied by exhaustive statements of reasons which enjoy considerable authority. Drafts of important measures are almost invariably published long before they go to the legislature, in order to receive the widest criticism, and, as the result of criticism, are often revised and sometimes entirely withdrawn. The individual author often remains unknown and the credit of the government stands behind the work.

The second reason is that when the government introduces a bill the parliamentary debate is somewhat in the nature of an adversary procedure, or at least there is, as it were, a petitioner and a judge. The minister or his representative (in Germany and France the experts appear in parliament as commissioners, while in England only parliamentary secretaries may speak—much to the disadvantage of the English debate) has to defend the measure against criticism, and legal imperfections or inequities would be legitimate grounds of attack. The liability to criticism insures proper care in advance. Together with the executive initiative goes a practical limitation of the number of bills introduced, an increased relative importance of each measure, and proportionately greater attention bestowed on it. Where this form of legislative preparation and procedure has been observed, it is not necessary to seek further reasons for a good quality of the product.

Perhaps the greatest hope for establishing constructive principles of legislation lies in the further development of plans that have already been tried, and of these four deserve particular notice: (1) the preparation of bills by special commissions; (2) the delegation of power to administrative commissions; (3) the organization of drafting bureaus, and (4) the codification of standing clauses.

1. Legislative commissions for the preparation of important measures: Commissions for revising and codifying laws have been familiar in American legislation from an early period, but the practice of creating commissions for particular measures seems to be of recent date, while in England it has been established for many years. It might be interesting to ascertain which of the principal reform statutes



of England since 1830 have been originated by royal commission. In America a similar inquiry would probably show very few instances during the nineteenth century; to judge from the Carnegie Institution indexes of economic material, neither in New York nor in Massachusetts were any of the important legislative measures before 1900 (married women, liquor, civil service, ballot reform) preceded by commission study or report.

The most conspicuous instance of the employment of commissions for the preparation of legislation has been in connection with the workmen's compensation acts; less generally the same method has been pursued for mining and factory laws and for land-title registration. The commission generally holds public hearings, gets opinions in writing, informs itself as to similar laws in other jurisdictions, summarizes its conclusions, and submits a bill. The result is generally a measure well thought out and well formulated. Even where the subject is very controversial, the unity of the original draft secures a consistent and co-ordinated statute.

2. The delegation of power to administrative commissions: The grant of rule-making powers to industrial commissions, public-service commissions, boards of health, civil-service commissions, etc., is often advocated mainly for the greater flexibility in enactment or change. From this point of view much may also be said against the practice, since an unstable policy in requirements of any kind is undesirable, and it is doubtful whether powers are likely to be exercised in that spirit. The real advantage, however, of such powers is that the bodies in which they are vested are likely to be better trained and informed and more professional in their attitude than legislative bodies, and that the powers being subordinate in character are more readily controllable by reference to general principles, whether laid down by statute or by the common law. The body will be sufficiently judicial in character to have respect for precedent, and its policy is therefore likely to be less variable than that of the legislature. These factors will tend to make rule-making more scientific than statute-making. There has been too little experience with the working of rule-making bodies in this country to warrant conclusions of much value; the precise line of demarcation between matter to be determined by statute and matter to be left to regulation has not yet been satisfactorily settled, and procedural safeguards for the making of rules have hardly

yet been developed. The method of procedure of the Federal Trade Commission is novel, and is perhaps especially adapted to the delicate and controversial problems with which it is called upon to deal, but its working will be watched with interest, and it may become a valuable precedent for delegating quasi-legislative powers in order that rules may be gradually developed upon the basis of particular cases after the analogy of the common law. If common-law methods can be made applicable to the development of statutory rules, so much the better. There is much reason to believe that many phases of standardization (rates, methods of assessment, safety requirements, classification) can be much more readily secured through the constant thought and ruling of an administrative commission than through the necessarily sporadic acts of a legislative assembly. Legislative power can, in other words, be exercised more effectually and more in accordance with the spirit of the Constitution through delegation than directly. This consideration should weigh against abstract theories regarding the non-delegability of legislative power.

3. The organization of drafting bureaus: This phase of the preparation of statutes is fully described in a report of the Special Committee on Legislative Drafting of the American Bar Association submitted in 1913. It appears that there are now at least fifteen states that have some provision for assistance to legislators in the technical work of drafting, apart from, or in connection with, the supply of reference material. The following is quoted from the report of 1913:

The Legislative Reference Service, now actually carried on in several states, demonstrates that it is entirely practicable to collect, classify, digest, and index, prior to a session of a legislature, all kinds of material bearing on practically all subjects likely to become subjects of actual legislation at the session. This material, where the bureau is well run, includes not only books and pamphlets, such as might be found in an ordinary library, but also copies of bills introduced into the various state legislatures and laws which have been enacted in this and foreign countries, and other printed material relating to the operation of such laws or the conditions creating a need for them. Indeed, on most subjects of possible legislation the difficulty is not to find material, but to arrange the large mass of available material so as to make its efficient use practical. That such service has great possibilities of usefulness is evident, especially where the service is directly contributory to the drafting service, a matter to be presently explained. The increasing complication of our industrial, social, and governmental adminis-

trative problems renders it necessary, if the discussion of matters pertaining to legislation is to proceed in a reasonably intelligent manner, that systematic effort be expended on the collection and arrangement of material bearing on current matters of public discussion likely to become the subject of legislative comment. A central agency to furnish such service does not take the place of special commissions or committees created to investigate particular subjects and recommend legislation. The object of the central reference service should be to assist such bodies as well as individual members of the legislature and others desiring information pertaining to subjects of legislation.

Existing agencies also demonstrate that it is possible to provide expert drafting service for the more important measures and some assistance in the drafting of all bills introduced. The number of bills, for which expert drafting assistance can be furnished, would appear to be merely a question of the size of the force and the amount of the appropriation for its support. Your committee, therefore, believes that it is entirely practicable to establish, in connection with any legislature, a permanent agency capable of giving expert drafting assistance for all bills introduced, and they urge the Association to place itself on record as favoring such an agency as the most practical means of bringing about scientific methods of legislation, that is to say, methods of drafting statutes which will secure: (1) conformity to constitutional requirements; (2) adequacy of the provisions of the law to its purpose; (3) co-ordination with the existing law; and (4) the utmost simplicity of form consistent with certainty.

The organization of the two services, legislative reference and legislative drafting, and their relation to each other are important factors in the usefulness of the results obtained from the establishment of the service. The agencies now existing, considered from the point of view of organization, fall into two classes: those in which the legislative reference work and the bill drafting are provided for in a single permanent bureau, as in Wisconsin, Indiana, and Pennsylvania, and those in which the legislative work is carried on by the state library or one of its divisions, the drafting work being done by persons appointed by and operating under the direct control of the legislature, as in New York, Connecticut, and Massachusetts. Your committee does not feel that they are as yet in a position to express an opinion on the relative merits of either form of organization. They are, however, of the opinion that the reference service should be so organized and operated as to be directly contributory to the drafting service, and that all questions of organization of the two services, their physical location and the relation of the reference work to other ends than the drafting of bills, as, for instance, supplying to legislators and others material for the discussion of pending or possible legislation, should be decided with this fundamental principle in mind. Where, as in New York, the reference service is not used by the drafting department, comparatively little use of the reference service is



made by members of the legislature. Again, if the drafting service makes no use of the reference service, the drafting service is necessarily confined to minor matters of form.

It is, of course, essential that the member, administrative officer, committee, or commission employing the drafting service shall be the final judge of the policy to be expressed in legislative form. Anyone entitled to use the service should be entitled to it without regard to the effect of the bill which he desires to have drawn. It is, however, not only proper but vital, if the drafting service is to do more than correct obvious clerical and formal errors, for those in charge of the work to be able, through their access to the reference material, to indicate, if desired, to the sponsors of the legislation the statutes of other states or countries dealing with the same subject or direct their attention to any other material collected by the reference service. Theoretically the member of a legislature desiring assistance in the preparation of bills, if there is no co-operation between the reference and the drafting service, can go first to the reference service for material and then to the drafting service. Practically, however, in the great majority of cases, the member seeks the aid, not of the reference, but of the drafting service. That service should be in a position to place the member in possession of all pertinent matter in relation to the subject. Furthermore, the draftsman himself should be in a position to ask the person, commission, or committee intelligent questions as to the details of the measure desired. This he cannot do unless he himself has some familiarity with the subject-matter. Where the draftsman is not in a position to refer the person or persons desiring the legislation to material bearing on the subject, and where he is not in a position to ask intelligent questions as to details, his assistance is necessarily confined to minor questions of form, and, consequently, the effectiveness of drafting service is reduced to a minimum. The valuable results obtained in Wisconsin are due to a combination of causes, not the least of which is the personality and ability of Dr. Charles McCarthy, the well-known head of the service. Another contributory cause, however, is the fact that that service has gone beyond mere form, without any attempt to control matters of policy, and this would have been impossible if the reference work had not been organized so as to be contributory to the drafting service.

Clearly an experiment that has so much promise in it deserves every encouragement, and no effort should be spared to direct the movement into scientific lines.

4. Codification of standing clauses: The value of standardizing constantly recurring terms and provisions, which enter into or are subsidiary to the main provisions of statutes, has been discussed be-



fore. Such standardization economizes legislative work, helps to avoid duplication and inconsistency, and makes for more perfect equality in the administration of the laws. If effected by separate statutes, it insures a degree of care in the consideration of technical detail which is otherwise hardly possible. For subsidiary clauses forming part of statutes dealing with contentious policies are often regarded as mere technicalities and escape proper scrutiny. As separate acts their preparation is likely to be committed to lawyers specially familiar with, or interested in, the particular subject, and they will receive the benefit of their knowledge and experience.

We have this standardization in our codes of procedure which control the criminal and civil enforcement of statutes from the point where the aid of the courts is invoked; we have it in the provisions of general city acts which govern the operation of municipal ordinances, since the creation of new administrative powers and remedies is not as a rule within the scope of delegated authority; we have it in interpretation acts, in acts relating to the exercise of eminent domain, in acts relating to public officers and official bonds, in civil-service acts, and perhaps in others. The practice is thus obviously not a new one, but it is capable of much more extensive application.

The report of the American Bar Association Committee, above referred to, submitted a list of topics the standardization of which was thought desirable, if practicable, and suggested the preparation of a drafting manual of instructions and model clauses. The Bar Association authorized the committee to proceed with the work, and the Reports of 1914, 1915, and 1916 brought some instalments of such a manual. There was thus drafted an act providing the procedure for the adoption of statutes or ordinances submitted to popular vote in municipalities. The enactment of such a statute would make it possible to provide very simply in any adoptive act that the act shall not take effect in any city until adopted by popular vote therein. Clearly the existence of such a statute could not be otherwise than beneficial. Desirable legislation has been defeated repeatedly by defective submission clauses.

The result of a series of such "clauses acts" would be the codification of an important section of administrative law. It would give occasion to consider systematically certain phases of legislation upon

which neither lawyers nor legislators appear to have settled convictions. The discussion of penalty clauses in the report of 1915 will serve as an illustration of this; no similar discussion of this ever-recurring subject can be found anywhere in our entire legal literature. In our present legislative practice the matter is left to the discretion or whim of the draftsman, and unless he offers some extreme or unusual clause his propositions will arouse only the slightest interest.

Should the Committee of the American Bar Association succeed in completing the outlined manual or a substantial portion thereof, the indorsement of the Association would add considerable weight to whatever intrinsic merit the work might possess. Care would have to be taken, however, not to misrepresent the meaning of such indorsement. For in the nature of things it is impossible that a large body can properly scrutinize such work, and it is compelled to take much of it on faith and credit. No legislative measure, however, can safely dispense with searching and even unfriendly criticism.

There is one body pre-eminently fitted to give this criticism—the National Conference of Commissioners on Uniform State Laws. Its indorsement of an act is nearly always the result of protracted discussion extending over a number of annual sessions, and the value of the indorsement is proportionately high. In such a body the question would of course arise whether uniformity in standing clauses is possible. The impression may exist that local peculiarities enter largely into the subsidiary phases of legislation. Careful examination and still more a practical attempt at unification will probably show this impression to be unfounded.

Clauses acts operate by incorporation into other statutes which tacitly or expressly refer to them. Their mere enactment gives them no mandatory character; that comes only from voluntary acceptance by the legislature in connection with subsequent legislation. The legislature may at any time override them and insert different provisions in a particular act. This may result even from habit, and if possible such abrogation should be avoided by construction. However, in view of this precarious status, a general subsidiary act would have to win favor by its own merits. All the more readily should it be given a chance to prove its merits, and its non-mandatory character should be an argument in favor of its adoption.

37. LIMITATIONS ON LEGISLATIVE ACTIVITY<sup>1</sup>

Legislatures may often promote the welfare of society by active measures, either in the way of restricting acts that in themselves would be injurious to society, or in the way of promoting directly or indirectly acts that will tend to make men better citizens or to further the good of society. It is perhaps no less important to consider the limitations of legislative activity, for in very many instances, however inclined we are toward sensible action and wise judgment, through our lack of information we may at times attempt to seek the impossible, thus wasting energy. Or, again, if our energies are misdirected, the result may be the accomplishment of harm rather than of good. There can be little doubt that many of the reform movements that are strongly advocated by our best-meaning citizens are at times ill advised.

Members of legislatures say that advocates of social reform are often unwise in the specific plans which they advocate, even though the end which they desire is good.

Again, reforms cannot go far beyond the active wish of the people. Many subjects are taken up regarding which the people care very little, either one way or the other. They have little active interest in either pushing or opposing them. In consequence, such measures may readily enough be carried by the efforts of some legislators who take an interest; but if anything of prime importance to the people is to be passed and opposition is met, there must be a strong popular sentiment back of the project. Most of the members of the legislature, under ordinary circumstances, wish to be reëlected, and perhaps in consequence they heed clearly the wishes of their constituents.

As has been suggested in preceding chapters,<sup>2</sup> the people are normally conservative, and every legislator wishes to avoid the reputation of being a radical or an extremist, because in the minds of most constituents radicalism is opposed to good sense, as in many instances a man's reputation as a humorist is likely to weaken people's belief

<sup>1</sup> By Jeremiah W. Jenks, Ph.D., LL.D., Research Professor of Government and Public Administration in New York University. Adapted from *Governmental Action for Social Welfare*, pp. 107-125, 134-138. Copyright, 1910, by The Macmillan Company. Reprinted by permission.

<sup>2</sup> Ibid. chaps. i and ii.

in his good judgment. Moreover, the people test radicalism in a way that while perhaps not always fair, is nevertheless understood by the members of the legislatures. Anything that is out of the common, anything that goes far beyond present custom, is with rare exceptions felt to be tending toward radicalism; and this the legislator will usually avoid.

On the other hand, occasionally there sweeps over a country a wave of popular excitement on some question, and the people themselves become extremely radical from the point of view of the legislators. Under certain conditions in Switzerland, the people, by petition of a certain proportion of the voters, may demand that a bill be prepared by the legislature, considered, and submitted to the people for their approval. Under this provision certain extremists succeeded in arousing popular hostility and pushing through a measure abolishing compulsory vaccination.<sup>1</sup> An even more extreme action was taken under the federal initiative and referendum in Switzerland. A comparatively few people, strongly anti-Semitic in their beliefs, put themselves actively to work to make living in Switzerland uncomfortable for the Jews. With this purpose they introduced in 1893 an amendment to the constitution forbidding the slaughter of animals for food purposes by bleeding. Their open argument was that they wished to prevent cruelty to animals. In fact they succeeded in awakening much public excitement on that question and in passing a law forbidding the method of slaughtering animals employed by the Jews, so that those Jews who were in the habit of living up to their religious customs had difficulty in securing meat.<sup>2</sup>

There is, therefore, a possibility that the people's wishes may be swayed back and forth to extremes, and under such circumstances they are likely to push through legislation that would be considered unreasonable by people of judgment, with ordinarily conservative habits. The more intelligent reformers, therefore, ought, on the one hand, to recognize the fact that legislators ordinarily will not favor radical measures on account of the conservatism of the people, but that in certain instances the people themselves may be roused to the advocacy of measures which will be more radical than an ordinary legislature would willingly pass. If, however, the people pass extreme

<sup>1</sup> A. L. Lowell, *Governments and Parties in Continental Europe*, Vol. I. p. 287.

<sup>2</sup> Ibid. Vol. II, p. 284.



measures, after the wave of excitement is over and their reason has returned, the laws are likely either to fall into disuse or be repealed. There arises the question whether the executive ought to enforce a law found on the statute books which he considers bad; but we all know as a matter of experience and from our knowledge of human nature that laws on the statute books that are opposed to the wishes of a majority of the people will rarely be enforced. Such neglect of laws, especially of those lately passed, tends to inculcate among the people a disrespect for law and order. Moreover, securing the passage of a law of this type, which will soon fall into disuse, is a waste of energy and a discouragement to people who are striving for legislation steadily progressive in its nature. It is, therefore, an unwise policy to attempt to move much faster than public opinion will follow, when we wish to secure the passage of measures looking toward the improvement of society.

This does not mean, however, that legislators should merely attempt to follow public opinion. A legislator who does only that has not much originality and certainly not the right public spirit. In many cases he is a moral coward; in others he is a demagogue. Members of the legislature should attempt to lead public sentiment and should attempt to secure the passage of laws that are as far in advance of public sentiment as they can get the people to follow; but they ought not to proceed more rapidly than that. The process should be first the education of public sentiment, then the passage of legislation slightly in advance of it, in order that the legislation itself may be the means for a still further advance in the right direction.

Reform movements are also limited by the character of the legislators. This is a somewhat different way of stating a proposition quite similar to that just discussed. In many instances a person who is a student of public questions, a specialist in legislation, will understand the people; and he will be prepared to introduce and advocate measures that seem radical in their nature—measures which most members of a legislature might disapprove, but which in reality are in accord with public sentiment. The legislators oppose either because they are corrupt or weak or misunderstand the people, or because some few of their constituents oppose.

In one of the decisions handed down by the United States court in Minnesota regarding certain railroad legislation in that state, Dis-

strict Judge Lochren, rendering the decision, after calling attention to some of the unjust characteristics of the legislation in question, added :

And it seems to me, in view of the severe penalties denounced by these acts of the legislature, that the officers of the corporations could not have done otherwise than to have refused to act under those circumstances, . . . There is no question but that such legislation is vicious, almost a disgrace to the civilization of the age, and a reproach upon the intelligence and sense of justice of any legislature which could enact provisions of that kind.

In this instance the judge seemed to consider the members of the legislature either vicious or so weak that they were unwilling to withstand popular clamor when the people were being swept away by a sudden wave of popular excitement.

When, some ten or fifteen years ago, ballot reform acts were introduced into the legislatures of many of our states, corruption of the ballot was very general in the cities and even throughout the states. There can be no doubt that public sentiment was very strongly against corruption, and that in most states the people were prepared to accept any measure of ballot reform that seemed reasonable and that they thought would really check vote-buying. When, however, the reformers prepared their bills and brought them before the legislatures, many members opposed them, although usually the opposition was not direct. Generally, objection was to the form of law proposed. Most members wished to keep party organization intact and asked to have a ballot of such a form that it would enable the ignorant man to vote a straight party ticket, and that would encourage, so far as possible, the voting of straight tickets instead of encouraging independence. By thus providing for party regularity, through amendments to the reformers' bills, they in many instances succeeded in defeating in part the real purpose of the legislation, although they did not dare directly to throw out the bills. In other instances the managers of the political parties that had depended the most upon corruption for carrying elections and that had the largest campaign funds to use for those purposes were opposed to any reform measure. Not daring, however, to oppose the reform directly, they added amendments which would still enable them to use money corruptly. We need to bear in mind that the members of legislatures are not merely human beings but human beings with very strong interests,

sometimes with strong prejudices, and that in consequence we shall find that strict limitations will be often placed by the legislators upon measures intended to reform society.

In the study of individual legislatures or of the individual members of various legislatures, we should recognize that bills suitable for one state might be entirely unsuitable for another. A bill might well succeed in New York when it would fail in Kentucky, or vice versa. The promoter of social welfare by legislative means must first consider the end that he will attain, then introduce the bill that will, as far as possible, meet the prejudices and wishes of the legislators with whom he has to deal, and in that way accomplish his results. The end should be kept in mind and not the particular form of the bill. Students of politics are likely often to feel that our somewhat extreme reformers, often spoken of as "professional" reformers, seem to care more for the form than for the substance.

People often complain that members of the legislature are attempting to block a reform or to put obstacles in the way for selfish reasons, when the fact is that the members of the legislature know that it often is much easier to bring about a reform somewhat slowly, in order that the measure may not be so far in advance of public opinion that it will not be properly enforced. In consequence, they advocate the adoption of the reform by successive steps, so that through a partial measure the public may be gradually informed, and that thus with the development of public sentiment the reform may be safely and certainly carried through.

In many instances, where it has been impossible to persuade a state legislature to adopt a law restricting the hours of labor for women and children, it has been possible to make provision for an investigation. This has been so at times, because there has been some corrupt interest opposing the legislation, often merely because the legislators were convinced that the people were not yet ready for a complete measure, and that in no other way could popular sentiment be so wisely developed as through a careful investigation which should make the real facts known to the public. After the people's sentiment had been properly developed by an investigation, they would be ready then to accept the legislative measure that should prove wisest.

Generally speaking, the labor unions have been very practical in their ways of securing shorter hours of labor by legislative means.

They have often been willing to take what they could get. For example, if they can secure an eight-hour law for state work, with the provision that all contracts for state work must be done on an eight-hour basis, they have been content with that, thinking that with this step and with the experience thus gained, it will in the future be much less difficult to secure an eight-hour law for all kinds of work. Without expressing any opinion as to the wisdom of legislation concerning the hours of labor, there can be no doubt that it frequently is wiser to attempt to move slowly in the adoption of reforms than to insist upon securing everything at once.

Another method of testing public sentiment and of securing the ready adoption of reform measures is by permissive rather than compulsory legislation. When, for example, it was first proposed that a federal incorporation act be passed under which the great corporations, especially those engaged in interstate commerce, might be organized under federal law, it was suggested by many that there be passed an excellent law, on the whole favorable to the best corporations that were doing an honest business, and that it should be permissive in its nature. If, then, a considerable number of the largest, the best, and the most influential corporations should organize under that law, because they wished to let the public know that they had nothing to conceal and because their interests would thus be furthered, other corporations not coming under the law when it was offered them would be discredited. They must then either change their methods of doing business or the value of their stock would probably fall. It was thought that under those circumstances even the worst of the corporations would eventually be forced either to organize under the new law or to adopt measures of publicity which would enable the public to see that their business was being conducted along right lines. In this way, after a time, the law which was at first permissive in its nature, might gradually come to have upon its side so strong a pressure of public sentiment that it could be made compulsory and applicable to all corporations that it was desirable to have thus affected.

The whole question of compromise in legislation, which has awakened much controversy at times among moralists as well as among students of politics, may be summed up in a few words. In promoting legislation one should always be sure that his aim and his principles



are right. Then as a compromise he may choose the time and the place and within reason the means and the methods for bringing about immediate results, and he should be cautious not to attempt to go too fast.

But aside from the limitations upon legislative activity to be found in the active wishes of the people and in the character of the legislators, still others are to be found in human nature and the ways in which it must be influenced. It has often been found that it is unwise to attack too directly and too sternly some of the weaknesses and passions of men and women, because frequently more harm than good will result. The attacks upon the vices and evils of society must be adapted to the time and place, and the wisest means must be chosen. While beyond doubt there has been a steady progress in society toward lessening the ill results coming from the liquor traffic, from the social evil, and from other curses of society, direct attacks have often failed of serious accomplishment. The aim of all legislation on such questions, of course, is to elevate society by putting a control over human weaknesses, especially by getting the different individuals in the community to control themselves. Unfortunately, many people do not control themselves. Legislation should therefore bring influence to bear so as gradually to develop the habit of self-control. In some instances this can best be done by removing temptations or by putting individuals under such circumstances that they can more readily resist temptation, at times perhaps by the substitution of some innocent habit or custom to take the place of the injurious one. Human needs and desires are likely to secure some satisfaction. It is wise to secure this satisfaction with the least injury to society. In the attempt to solve such questions we need to be especially guarded against our prejudices, and it is usually found wise to pay close heed to the opinion and judgment of people who have had so direct experience that they may speak with authority.

If the social conditions are not kept well in mind, we are likely to act not merely unwisely, but often unjustly. In every crime, of course, there must be an evil intent. Now, if a social custom has in any country been generally recognized and a person without wrong intention follows that custom, it would be grossly unjust to punish him for his act until he is educated to see that his act is wrong,—then it may be forbidden.

It is desirable also to avoid too much legislation. Probably Herbert Spencer goes too far in decrying over-legislation, but most of us are too ready to assume that, if there is any evil, the best remedy is to get a law passed. In very many instances it is better to let the evils work out their own cure. For example, over-capitalization of our great corporations has doubtless been a serious evil in this country, but any man who has followed the conditions of business for the last ten years would doubtless say that probably three-fourths of the evils that followed from over-capitalization in the years 1890-1892 have already been overcome. In most instances, as soon as the evil was clearly recognized, business men set to work to prevent its recurrence; and while in all probability some legislation would now be wise and would have been wise several years ago, the need was not so great as was at times assumed. The legislation needed is rather regulation through publicity than an attempt directly to forbid over-capitalization.

One can hardly avoid in this connection a brief reference to socialism. While there are many classes of socialists, they practically all believe that the power of the state should be increased until it would take very active control of the productive industries of the country. This seems to me most emphatically over-legislation. My objection to over-legislation in many cases is that it checks individual development and takes away from our citizens the power of self-reliance. Unless a country is entirely different from most democracies, the care of individuals by a government far removed from them, as has already been said, is likely to check individual initiative. So far as I know, the socialists, and I have many friends among them, have frequently assumed that the nature of industrial activity is the same in all states. In my judgment, human nature is such that there never can be uniformity in all states in all industries. Some industries are probably adapted to control by the state. Others never will be adapted to control by the state, because they depend largely on individual initiative and genius. For such industries there ought not to be a common central control. On the other hand, we can best perhaps get coöperative control of many great industries, especially those that are public in their nature, through a city government; but it may well be that while one city would control and operate a street railway to excellent advantage, another city with differing conditions or with a different policy would fail utterly.

We should not think that human character, human motives, human ways of looking at questions, can be changed much by legislation. A man who is selfish, grasping, dominating, in our present industrial society would be the same type in a socialistic state. It is in his relations to other people that he is really anti-social, and if you change the form of our social institutions without changing the nature of the man, he will still be anti-social. If he is a man of ability, of strong personality, born to rule, instead of being a captain of industry, he might well become a governor of a socialistic state; but we may be sure that in that capacity his selfish anti-social characteristics would still remain, and the welfare of society would be sacrificed to further his own selfish purposes.

The usefulness of legislation, finally, to sum the whole matter up in brief, is strictly limited. Relativity is the key-word to legislative action. Laws must be fitted to the place, to the time, to the people, and extravagances and over-legislation must be avoided.

## CHAPTER XII

### SOCIAL CONTROL OF HEREDITY

#### 38. FUNDAMENTAL FACTS OF HEREDITY<sup>1</sup>

1. Heredity is a flesh and blood linkage, a germinal continuity, binding generation to generation. It is a term for a biological relation of offspring to ancestry. It has nothing directly to do with tradition or with culture-legacies handed on outside the organism.

2. The natural inheritance is carried, we cannot picture how, in the form of initiatives, or factors, or determinants in the egg-cell (the ovum) and the sperm-cell (the spermatozoon) which unite at the beginning of each new life.

3. The inheritance, contained implicitly in the fertilised egg-cell, requires an appropriate nurture if it is to develop aright. Development is the making visible or actual of what has lain in the germ-cell in an invisible or potential state.

4. In mammals, and in some other cases, e.g. flowering plants, the developing embryo may be influenced very early by its immediate surroundings within the mother, but that influence is part of nurture, not part of the hereditary nature.

5. Apart from a few exceptional cases, e.g. virgin birth (parthenogenesis), which is restricted in natural conditions to backboneless animals, every inheritance is dual, partly paternal and partly maternal. The mother certainly contributes in the cytoplasm or the extra-nuclear substance of the egg-cell the greater part of the initial building material, the sperm-cell being very much more minute. It is highly probable that many old-established generic characters have their vehicle in the cytoplasm of the ovum. As regards those hereditary items which are carried in the nuclei of the sex-cells, it is interesting to notice that the nuclear-bodies (chromosomes) are usually equal or nearly equal in number in sperm and ovum. Each kind

<sup>1</sup> By J. Arthur Thomson, M.A., LL.D., Regius Professor of Natural History in Aberdeen University. Adapted from *The Control of Life*, pp. 57-62, 130-131. Copyright, 1921, by Henry Holt and Company, New York.



of organism has a definite number of chromosomes which is usually the same in all the cells, except the unripe ova and sperms, which have double the normal number. There is nothing in the number itself, which is the same in quite unrelated organisms, e.g. white man and slug; the point is the constancy of the number.

6. The paternal and maternal contributions form the warp and woof of the web which composes the organism, and each sex-cell carries a complete set of the essential hereditary qualities. In the course of development, however, the offspring may 'take after' one side of the house as regards one character, and may 'favour' the other side of the house as regards some other character. It may be like the father in its hands, like its mother in its hair. Thus we have to distinguish between the inheritance or 'genetic composition' which the organism has to start with, and the expression of that inheritance in development.

7. Strictly speaking, an inheritance is multiple as well as dual, for there may be demonstrable ancestral contributions which did not find expression in the parent. Resemblance to a grandparent is a common and, as we shall see, readily explicable phenomenon. Characters sometimes lie latent for a generation, or for several generations, which again brings out the difference between the implicit inheritance and the developmental expression of it.

8. The largest fact of heredity is that like tends to beget like. The hereditary relation between successive generations is such that a general resemblance is sustained. A particular kind of organisation, associated with a particular kind of activity, persists from generation to generation. These are simply different ways of saying the same thing; that all inborn characters (except sterility) are heritable and may be handed on. But "may" cannot be changed into "must," for the unexpected often happens.

### *Recent Advances in the Study of Heredity*

There are three modern ideas that have profoundly influenced our views of heredity. (1) The first is the idea of germinal continuity, which we owe especially to Sir Francis Galton and Professor August Weismann. The reason for like begetting like is to be found in the persistence of a specific organisation through a lineage of unspecialised germ-cells. The germinal material of the fertilised ovum forms the

basis of the building material out of which the body of the offspring is built up, undergoing, in a puzzling way, not only a huge increase in quantity but a qualitative differentiation into nerve and muscle, blood and bone. But while this is going on, a residue of the germinal material is kept intact and unspecialised to form the beginning of the reproductive organs of the offspring, whence may be launched in due time another similar vessel on the adventurous voyage of life. The sex-cells produced in the reproductive organs are the descendants of unspecialised embryonic cells, which did not share in body-making, which did not become specialised. In short, these germ-cells remain like the fertilised egg-cell from which the organism started; they continue the specific tradition intact. As it has been put, instead of saying that the hen gives rise to the egg, we should say the egg gives rise to the hen and to the eggs which the hen's body contains. So we see that the parent is rather the trustee of the germ-plasm (the germinal basis of the specific organisation) than the producer of the child. In a new sense the child is a chip of the old block. Or as Professor Bergson puts it in less static metaphor, "Life is like a current passing from germ to germ through the medium of a developed organism." This continuity of the germ-plasm, by cell-division after cell-division, along a lineage of unspecialised cells, explains the inertia of the main mass of the inheritance, which is carried on, as we have seen, with little change, as it were en bloc, from generation to generation. Men do not gather grapes off thorns, or figs off thistles. Similar material to start with; similar conditions in which to develop; therefore like begets like.

(2) The second very important modern idea, which we owe to Mendel and Professor de Vries, is that of unit-characters. Some have compared its importance to that of the Atomic Theory in chemistry. An inheritance is, in part, built up of numerous, more or less clear-cut, crisply defined, non-blending characters, which are continued in some of the descendants as discrete wholes, neither merging nor dividing. A definite type of very intelligent dwarf has been known to reappear for four or five generations. The persistence of the Hapsburg lip is a well-known instance of a trivial unit-character that came and stayed. An abnormal peculiarity like having six fingers may defy dislodgment for six generations. These unit-characters or Mendelian characters behave as if they were discrete entities which can be

shuffled about and distributed to the offspring in some degree independently of one another and which can be re-united in new combinations. They must be represented in the germ-cell by 'factors' or 'determinants' or organisational peculiarities of some sort. One of the latest names for a hereditary 'factor' is 'gene.'

(3) The third very important idea that has been brought into prominence in modern times is that bodily modifications—dints and imprints—acquired by an individual as the direct result of peculiarities in nurture, are not readily transmissible, if at all, and, in any case, are not usually transmitted. Every care must be taken to avoid dogmatism, but it is certain that individually acquired modifications (in the technical sense) are not commonly transmitted to any observable extent. We must go further and say that it is exceedingly difficult to find incontrovertible evidence showing that they may be even occasionally transmitted.

For the individual there is great plasticity, as the result of changes in environment and function. Man is very modifiable and educable. And though the resulting modifications do not seem to be transmissible as such, they can be reimpressed if desirable, on generation after generation. In her interesting study, *Environment and Efficiency* (1912), Miss Mary Horner Thomson tells of her study of 265 children, mostly of "the lowest class" (Class A, fourth below the poverty level!) who had been sent to institutions and trained. She found that 192 (72 per cent.) turned out well; that 44 (16 per cent.) were doubtful; and that only 29 (less than 11 per cent.) were unsatisfactory, and of these 13 were defectives. One would like to know, of course, that the turning-out-well lasted, and one would like to have a hundred similar sets of figures. But the suggestion is that nurture means much to the individual.<sup>1</sup>

### 39. THE MENDELIAN THEORY<sup>2</sup>

The total inheritance of an individual is divisible into unit characters, each of which is, as a general rule, inherited independently of all other characters and may therefore be studied without reference to them.

<sup>1</sup> Compare *infra*, Chapter XIV, Title 48, "The Jukes in 1915," pp. 384-385.

<sup>2</sup> From "A Study of Heredity in Insanity in the Light of the Mendelian Theory" (pp. 222-225), by A. J. Rosanoff, M.D., and Florence I. Orr, B.S. *Bulletin No. 5*, Eugenics Record Office, Cold Spring Harbor, New York, October, 1911.

The inheritance of any such character is believed to be dependent upon the presence in the germ plasm of a unit of substance called a determiner.

With reference to any given character the condition in an individual may be dominant or recessive: the character is dominant when, depending upon the presence of its determiner in the germ plasm, it is plainly manifest; and it is recessive when, owing to the lack of its determiner in the germ plasm it is not present in the individual under consideration.

The dominant and recessive conditions of a character are designated by the symbols D and R respectively.

Thus in the case of eye color the brown color is the dominant condition and the blue color is the recessive condition. In other words, the inheritance of brown eyes is due to the presence in the germ plasm of a determiner upon which the formation of brown pigment in the anterior layers of the irides depends, while the inheritance of blue eyes is due to the lack of determiner for brown pigment in the germ plasm, for the blue color of eyes is due merely to the absence of brown pigment, the effect of blue being produced by the choroid coat shining through the opalescent but pigment-free anterior layers of the irides in such cases.

It is obvious that as regards any character an individual may inherit from both parents—duplex inheritance, designated by the symbol DD,—or from one parent only—simplex inheritance, designated by the symbol DR,—or he may fail to inherit from either parent—nulliplex inheritance, designated by the symbol RR; in the last case the individual will exhibit the recessive condition.

We are now in a position to estimate the relative number of each type of offspring according to theoretical expectation in the case of any combination of mates.

There are but six theoretically possible combinations of mates. Continuing to make use of eye color as an instance of a Mendelian character, let us consider in turn each theoretical possibility.

1. Both parents blue-eyed (nulliplex): all the children will be blue-eyed, as may be shown by the following biological formula:

$$RR \times RR \infty RR.$$

2. One parent brown-eyed and simplex (that is to say inheriting the determiner for brown-eye pigment from one grandparent only),



the other blue-eyed: one-half of the children will be brown-eyed and simplex and the other half blue-eyed:

$$DR \times RR \propto DR + RR.$$

3. One parent brown-eyed and duplex, the other blue-eyed: all the children will be brown-eyed and simplex:

$$DD \times RR \propto DR.$$

4. Both parents brown-eyed and simplex: one-fourth of the children will be brown-eyed and duplex, one-half will be brown-eyed and simplex, and the remaining one-fourth will be blue-eyed (nulliplex):

$$DR \times DR \propto DD + 2DR + RR.$$

5. Both parents brown-eyed, one duplex the other simplex: all the children will be brown-eyed, half duplex and half simplex:

$$DD \times DR \propto DD + DR.$$

6. Both parents brown-eyed and duplex: all the children will be brown-eyed and duplex:

$$DD \times DD \propto DD.$$

It will be seen from these formulæ that in attempting to predict the various types of offspring that may result from a given mating it is necessary to know not only whether the character is in each parent dominant or recessive, but in the case of the dominant condition also whether it is duplex or simplex.

Turning again to the example of eye color, a blue-eyed individual we know to be nulliplex, as he has no brown pigment in his eyes and therefore could not have inherited the determiner for brown-eye pigment from either parent. But how are we to judge in the case of a brown-eyed person whether he has inherited the determiner for that character from both parents or only from one? We can judge this only by considering the ancestry and offspring of the individual.

To put the whole matter in a nutshell, the essential difference between the dominant and the recessive conditions of a character lies

in the fact that in a case of simplex inheritance the dominant condition is plainly manifest, while the recessive condition is not apparent and can be known to exist only through a study of ancestry and offspring.

This is important because it constitutes the criterion which enables us to determine whether any given inherited peculiarity or abnormality is, as compared with the average or normal condition, dominant or recessive.

#### 40. MENDELIAN PRINCIPLES AND HUMAN INHERITANCE<sup>1</sup>

Since the rediscovery in 1900 of Mendel's work many investigators have carried out similar experiments on many species of animals and plants and have greatly extended our knowledge of the principles of inheritance discovered by Mendel, but in the main Mendel's conclusions have been confirmed again and again, so that there is no doubt that they constitute an important rule of inheritance among all sexually produced organisms.

In brief the "Mendelian Law of Alternative Inheritance" or of hereditary "splitting" consists of the following principles:

1. *The principle of unit characters.* The heritage of an organism may be analyzed into a number of characters which are inherited as a whole and are not further divisible; these are the so-called "unit characters" (de Vries).

2. *The principle of dominance.* When contrasting unit characters are present in the parents they do not as a rule blend in the offspring, but one is dominant and usually appears fully developed, while the other is recessive and temporarily drops out of sight.

3. *The principle of segregation.* Every individual germ cell is "pure" with respect to any given unit character, even though it come from an "impure" or hybrid parent. In the germ cells of hybrids there is a separation of the determiners of contrasting characters so that different kinds of germ cells are produced, each of which is pure with regard to any given unit character. This is the principle of segregation of unit characters, or of the "purity" of the germ cells. Every sexually produced individual is a double being, double in every

<sup>1</sup>From *Heredity and Environment* (pp. 98-99, 116-121), by Edwin G. Conklin, Ph.D., Sc.D., Professor of Biology in Princeton University. Revised fourth edition. Copyright, 1922, by the Princeton University Press.

cell, one-half of its determiners having been derived from the male and the other half from the female sex cell. This double set of determiners again becomes single in the formation of the germ cells only once more to become double when the germ cells unite in fertilization.

### *Mendelian Inheritance in Man*

The study of inheritance in man must always be less satisfactory and the results less secure than in the case of lower animals and for the following reasons: In the first place there are no "pure lines" but the most complicated intermixture of different lines. In the second place experiments are out of the question and one must rely upon observation and statistics. In the third place man is a slow breeding animal; there have been less than sixty generations of men since the beginning of the Christian era, whereas Jennings gets as many generations of *Paramecium*<sup>1</sup> within two months and Morgan almost as many generations of *Drosophila*<sup>2</sup> within two years. Finally the number of offspring are so few in human families that it is impossible to determine what all the hereditary possibilities of a family may be. Bearing in mind these serious handicaps to an exact study of inheritance it is not surprising that the method of inheritance of many human characters is still uncertain.

Davenport and Plate have catalogued more than sixty human traits which seem to be inherited in Mendelian fashion. About fifty of these represent pathological or teratological conditions while only a relatively small number are normal characters. This does not signify that the method of inheritance differs in the case of normal and abnormal characters, but rather that abnormal characters are more striking, more easily followed from generation to generation, and consequently statistics are more complete with regard to them than in the case of normal characters. In many cases statistics are not sufficiently complete to determine with certainty whether the character in question is dominant or recessive, and it must be understood that in some instances the classification in this respect is tentative. A partial list of these characters is given herewith:

<sup>1</sup>A ciliated protozoan.

<sup>2</sup>A genus of fruit-flies.

## MENDELIAN INHERITANCE IN MAN

## NORMAL CHARACTERS

<i>Dominant</i>	<i>Recessive</i>
<i>Hair:</i>	
Curly	Straight
Dark	Light to red
<i>Eye Color:</i>	
Brown	Blue
<i>Skin Color:</i>	
Dark	Light
Normal Pigmentation	Albinism
<i>Countenance:</i>	
Hapsburg Type (Thick lower lip and prominent chin)	Normal
<i>Temperament:</i>	
Nervous	Phlegmatic
<i>Intellectual Capacity:</i>	
Average	Very great
Average	Very small

## TERATOLOGICAL AND PATHOLOGICAL CHARACTERS

<i>General Size:</i>	
Achondroplasy (Dwarfs with short stout limbs but with bodies and heads of normal size)	Normal.
Normal size	True Dwarfs (With all parts of the body reduced in proportion)
<i>Hands and Feet:</i>	
Brachydactyly (Short fingers and toes)	Normal
Syndactyly (Webbed fingers and toes)	Normal
Polydactyly (Supernumerary digits)	Normal
<i>Skin:</i>	
Keratosis (Thickening of Epidermis)	Normal
Epidermolysis (Excessive formation of blisters)	Normal
Hypotrichosis (Hairlessness associated with lack of teeth)	Normal



## TERATOLOGICAL AND PATHOLOGICAL CHARACTERS

<i>Dominant</i>	<i>Recessive</i>
<i>Kidneys:</i>	
Diabetes insipidus	Normal
Diabetes mellitus	Normal
Normal	Alkaptonuria (Urine dark after oxidation)
<i>Nervous System:</i>	
Normal Condition	General Neuropathy, e.g. Hereditary Epilepsy Hereditary Feeble-mindedness Hereditary Insanity Hereditary Alcoholism Hereditary Criminality Hereditary Hysteria
<i>Nervous System:</i>	
Normal	Multiple Sclerosis (Diffuse degeneration of nerve tissue)
Normal	Friedrich's Disease (Degeneration of upper part of spinal cord)
Normal	Meniere's Disease (Dizziness and roaring in ears)
Normal	Chorea (St. Vitus Dance)
Normal	Thomsen's Disease (Lack of muscular tone)
Huntington's Chorea	Normal
Muscular Atrophy	Normal
<i>Eyes:</i>	
Hereditary Cataract	Normal
Pigmentary Degeneration of Retina	Normal
Glaucoma (Internal pressure and swelling of eyeball)	Normal
Coloboma (Open suture in iris)	Normal
Displaced Lens	Normal
<i>Ears:</i>	
Normal	Deaf-mutism
Normal	Otosclerosis (Rigidity of tympanum, etc., with hardness of hearing)

## SEX-LINKED CHARACTERS

Recessive characters, appearing in male when simplex, in female when duplex.

Normal	Gower's Muscular Atrophy
Normal	Hæmophilia (Slow clotting of blood)
Normal	Color Blindness (Daltonism; inability to distinguish red from green)
Normal	Night Blindness (Inability to see by faint light)
Normal	Neuritis Optica (Progressive atrophy of optic nerve)

The principles of heredity established by Mendel are almost as important for biology as the atomic theory of Dalton is for chemistry. By means of these principles particular dissociations and recombinations of characters can be made with almost the same certainty as particular dissociations and recombinations of atoms can be made in chemical reactions. By means of these principles the hereditary constitution of organisms can be analyzed and the real resemblances and differences of various organisms determined. By means of these principles the once mysterious and apparently capricious phenomena of prepotency, atavism, and reversion find a satisfactory explanation.

Before the establishment of Mendel's principles, heredity was, as Balzac said, "a maze in which science loses itself." Much still remains to be discovered about inheritance, but the principles of Mendel have served as an Ariadne thread to guide science through this maze of apparent contradictions and exceptions in which it was formerly lost.

41. CAN HUMAN EVOLUTION BE CONTROLLED?<sup>1</sup>

Almost all that man now is he has come to be without conscious human guidance. If evolution has progressed from the amœba to man without human interference, if the great progress from ape-like men to the most highly civilized races has taken place without con-

<sup>1</sup>From *Heredity and Environment* (pp. 293-316), by Edwin G. Conklin.

scious human control, the question may well be asked, Is it possible to improve on the natural method of evolution? It may not be possible to improve on the method of evolution and yet by intelligent action it may be possible to facilitate that method. Man cannot change a single law of nature but he can put himself into such relations to natural laws that he can profit by them.

*Selective breeding the only method of improving the race.* It is surely not possible to improve on nature's principle of eliminating the worst lines from reproduction. This has been the chief factor in the establishment of races of domesticated animals and cultivated plants, though as we have seen it has probably had nothing to do with the origin of mutations. The history of such races shows that evolution may be guided to human advantage by intelligent elimination and selection, and probably any hereditary improvement of the human race must be accomplished by this means, though of course such elimination and selection can apply only to the function of reproduction. The method of evolution by the elimination of persons, the destruction of the weak and cowardly and antisocial, which was the method practiced in ancient Sparta, is repugnant to the moral sense of enlightened men and cannot be allowed to act as in the past; but the worst types of mankind may be prevented from propagating, and the best types may be encouraged to increase and multiply. This is apparently the only way in which we may hope to improve permanently the human breed.

*No improvement in human heredity within historic times.* The improvement of environment and of opportunity for individual development enables men at the present day to get more out of their heredity than was possible in the past. Advance of civilization has meant only improvement of environment. But neither environment nor training has changed the hereditary capacities of man. There has been no perceptible improvement in human heredity within historic times.

*Why the race has not improved.* If mankind has made no progress in hereditary characteristics since the time of the Greeks the cause is not far to seek. There have been gifted races and families, doubtless many notable human mutations have occurred, but most of these have been diluted, squandered, lost. There has been per-

sistent violation of all principles of good breeding among men. For example, there has been for ages a futile reliance upon good environment to improve heredity. Men do not so improve the races of animals and plants, and thousands of years of human history show that this method is of no avail in improving the human breed.

But the case is far worse than this; such efforts though futile are at least well intentioned, but on the part of most men and governments there has been complete disregard of the entire question of the improvement of the human stock. Natural selection which has through countless ages eliminated the worst and conserved the best-fitted and thus has led on the whole to the survival of the fit is so far as possible nullified by civilized man; the worst are preserved along with the best and all are given the same chance of reproduction. The mistake has been not in nullifying natural selection by preserving the weak and incompetent, for civilized men could not well do otherwise, but in failing to substitute intelligent artificial selection for natural selection in the propagation of the race. Instead of this there has been perpetuation of the worst lines through sentimental regard for personal rights, even when opposed to the welfare of society; and both church and state have cheerfully given consent and blessing to the marriage and propagation of idiots and of diseased, defective, insane, and vicious persons. Finally there has been extinction of the world's most gifted lines by enforced celibacy in many religious orders and societies of scholars; by almost continuous wars which have taken the very best blood that was left outside of the monastic orders; by luxury and voluntary sterility; by vice, disease, and consequent infertility.

Is it any wonder that the inheritance of the human race has not improved within historic times? Is it not rather an evidence of the broadcast distribution of good and wholesome qualities in the race that in spite of such serious violations of the principles of good breeding mankind remains as good as we find it today?

### *Eugenics*

If a superior power should deal with man as man deals with domestic animals no doubt great improvement could be effected in the human breed. Society is in some respects such a power and can do



what the individual, because of self-interest, short life, or lack of ability, cannot accomplish. In matters of public health and comfort, security of life and property, society is superior in power to the individual; in matters of the perpetuation of the race the individual is still supreme. In animal societies the race, the breed, is to the swift and strong and fit, and the same was probably true of primitive men. But it is impossible to return to the conditions of primitive society in this respect, and the social body itself must in some way control the breeding of men.

Fortunately or unfortunately the methods which breeders use cannot be rigidly applied in the case of man. It is possible for breeders to eliminate from reproduction all except the very best stocks, and this is really essential if evolution is to be guided in a definite direction. If only the very worst are eliminated in each generation, the standard of a race is merely maintained, but the more severe the elimination is the more does it become a directing factor in evolution. In the case of man, however, even the most enthusiastic eugenicists have never proposed to cut off from the possibility of reproduction all human stocks except the very best, and if only the very worst stocks are thus eliminated, we must face the conclusion that no very great improvement can be effected. It is impossible, then, to apply rigidly to man the methods of animal and plant breeders. Society cannot be expected to eliminate from reproduction all but the very best lines. The great majority of mankind cannot be expected voluntarily to efface itself. The most that can be hoped for in this direction is that the great mediocre majority may eliminate from reproduction a very small minority of the worst individuals.

Furthermore, other and perhaps even more serious objections to the views of extreme eugenicists are to be found in human ideals of morality. Even for the laudable purpose of producing a race of supermen, mankind will probably never consent to be reduced to the morality of the breeding-pen with a total disregard of marriage and monogamy. The geneticist who has dealt only with chickens or rabbits or cattle is apt to overlook the vast difference between controlling reproduction in lower animals and in the case of man where restraints must be self-imposed.

Another fundamental difficulty in breeding a better race of men is to be found in a lack of uniform ideals. A breeder of domestic animals

lives long enough to develop certain races and see them well established, but the devotee of eugenics cannot be sure that his or her ideals will be followed in succeeding generations. The father of Simon Newcomb is said to have walked through the length and breadth of Nova Scotia seeking for himself a suitable mate, but neither he nor any other eugenicist could be sure that his descendants would follow a similar course, and long continued selection along particular lines must be practiced if the race is to be permanently improved. Mankind is such a mongrel mixture, and it is so impracticable to exercise a strict control over the breeding of men, that it is hopeless to expect to get pure or homozygous stocks except with respect to a very few characters and then only after long selection.

But granting all these difficulties which confront the eugenicist, there is no doubt that something may be gained by eliminating merely the worst human kinds from the possibility of reproduction, even though no marvellous improvement in the human race can be expected as a result of such a feeble measure.

*Possible and impossible ideals. Supermen.* What the future evolution of the human race may lead to is an interesting speculation, but it is and can be only a speculation. There is no present evidence that there will ever be a higher animal than man on the earth, and the only evidence that there may be a higher species than *Homo sapiens* is to be found in the fact that there have been lower species of men in the past and that evolution has been on the whole progressive. The idea that by the aid of that infant industry, eugenics, a new race of supermen is shortly to be produced is an iridescent dream, and the fantastic demand of some enthusiasts for changes in racial fashions has served to bring this whole subject of eugenics into disrepute among thoughtful men.

*Hereditary classes.* To a considerable extent ideals regarding individuals and society have differed among different races in the past, but with the closer communications which have been established between all parts of the earth in modern times there has developed a greater uniformity of ideal. In a complex society all types of service are needed and different types of individuals are socially useful. If the social good were the supreme end, as it is in a colony of ants or bees, the greatest differentiation of individuals for particular kinds of service would be desirable. There should be an hereditary class of

laborers, of business men, of scholars, of artists, etc., and for the improvement of each class there should be inbreeding in that class. Such methods are now used by breeders of various races of domestic animals and cultivated plants with the best of results. No breeder would think of trying to improve draft horses by crossing with race horses, nor of improving milk cows by crossing with beef cattle. In other countries and ages the development of hereditary classes and castes in human society has been tried, and survivals of it persist to this day, but they are only vestigial remnants of an old order which is everywhere being replaced by a new ideal in which the good of the individual as well as that of society is the end desired.

The whole development of modern society is in the direction of racial solidarity and away from hereditary classes. Government, education, and religion; socialism, syndicalism, bolshevism all reflect the movement for individual liberty, fraternity, and equality. The modern ideal individual is not the highly specialized unit in the social organism, as in the case of social insects, but rather the most general all-round type of individual, the man who can when conditions demand it combine within himself the functions of the laborer, business man, soldier, and scholar. For such a generalized type the methods of inbreeding or close breeding used by the breeder of thoroughbreds are wholly inappropriate. On the other hand such a generalized type must include the best qualities of many types and races and Mendelian inheritance shows how it is possible to sort out the best qualities from the worst.

Nowadays one hears a lot of high sounding talk about "human thoroughbreds," which usually means that those who use this phrase desire to see certain narrow and exclusive social classes perpetuated by close inbreeding; it usually has no reference to good hereditary traits wherever found, indeed such traits would not be recognized if they appeared outside of "the four hundred." Such talk probably does neither harm nor good; the "social thoroughbreds" are so few in number and so nearly sterile that the mass of the population is not affected by these exclusive classes.

Galton advocated the segregation and intermarriage of the most highly intellectual members of society, such as the prize scholars in the colleges and universities; but if the human ideal is the generalized rather than the specialized type it would be better if the prize scholars

married the prize athletes. A race of highly specialized scholars or athletes is not so desirable as a race in which these and other excellences are well balanced. From this point of view the person who is voted the "best all-round man in his class" is nearer the eugenical ideal than the prize scholar.

No man can trace his lineage back through many generations without realizing that it includes many hereditary lines differing greatly in value. The significance of sexual reproduction lies in this very fact that it brings about the commingling of distinct lines and thereby makes every individual different from every other one. The entire history of past evolution testifies to the value of this process, although it causes the gardener, the breeder, the eugenicist serious trouble. But the gardener can propagate his choice fruits by budding and grafting, the breeder can for a time preserve his choice stock by close inbreeding, but the eugenicist cannot shut out the influence of foreign blood, and perhaps it is well that he cannot for if he could do so the progress of the race might soon come to an end.

*Racial amalgamations.* In the human species the only absolute barrier to the intermingling of races is geographical isolation. Every human race is fertile with every other one, and though races and nations and social groups may raise artificial barriers against interbreeding we know that these artificial restraints are frequently disregarded and that in the long run amalgamation does take place; and in general the further amalgamation progresses the faster it goes. In Australia and New Zealand, after little more than a century's contact with white races, there are about as many "half castes" as there are full blooded aborigines. In the United States one-quarter of all persons of African descent contain more or less white blood; there are about eight million full blooded negroes and two million mulattoes, and during the past twenty years the latter have increased at twice the rate of the former. In Jamaica, where there are about seven hundred thousand blacks and fifteen thousand whites, there are about fifty thousand mulattoes. A similar condition prevails wherever different races occupy the same country. Even the Jews, who were long supposed to be a peculiarly separate and distinct people, have received large admixtures of Gentile blood in every country in which they have lived.

Whether we want it or not hybridization of human races is going on and will increase. Partition walls between classes and races are



being broken down; complete isolation is no longer possible, and a gradual intermixture of human races is inevitable. We are in the grip of a great world movement and we cannot reverse the current, but we may to a certain extent direct the current into the more desirable channels.

There is a popular belief that hybrid races are always inferior to pure bred ones, but this is by no means the case. Some hybrids are undoubtedly inferior to either of the parents but on the other hand some are vastly superior; only experience can determine whether a certain cross will yield inferior or superior types. Society may well attempt to prevent those crosses which produce inferior stock while encouraging those which produce superior types.

*Immigration.* It is race mixture which makes the problem of immigration so serious. Generally immigration is regarded merely as an economic and political problem, but these aspects of it are temporary and insignificant as compared with its biological consequences. In welcoming the immigrant to our shores we not only share our country with him but we take him into our families and give to him our children or our children's children in marriage. Whatever the present antipathies may be to such racial mixtures we may rest assured that in a few hundred years these persons of foreign race and blood will be incorporated in our race and we in theirs. From the amalgamation of good races good results may be expected; but fusion with inferior races, while it may help to raise the lower race, is very apt to pull the higher race down. How insignificant are considerations of cheap labor and rapid development of natural resources when compared with these biological consequences!

*Negative eugenical measures. Late and early marriages.* Galton said nothing about sterilization or elimination from reproduction of less valuable lines in his *Inquiries into Human Faculty* which was first published in 1883. He proposed no radical policy but rather one which he thought would be practical and might meet with general favor. He suggested a social policy which would delay the age of marriage among the weak and hasten it among the vigorous, whereas present social agencies act in the opposite direction. He showed by statistics that, on the average, marriage at the age of twenty-two would produce at the end of one century four times as many offspring as marriage at thirty-three and at the end of two centuries ten times

as many. He particularly emphasized the great harm which would be done by an application of the theory of Malthus among the better classes. For the prudent to put off marriage and to limit offspring while the imprudent continue to reproduce at the present rate would be to give the world to the imprudent within a few centuries at most.

*Segregation and sterilization.* His suggestions, which were at first received with indifference or ridicule, were much less radical than the legal requirements in many of our States today. Public sentiment has been greatly aroused on this question; the apparent increase in the number of defectives and criminals has seemed to call for radical action and a flood of hasty but well intentioned legislation has been the result. We may confidently expect that in a very short time the marriage of the feeble-minded, hopelessly insane or epileptic, the congenitally blind, deaf, and dumb, and those suffering from many other inherited defects which unfit them for useful citizenship will be prohibited by law in all the States. Our immigration laws already exclude such aliens, and the number of persons of the types named who seek legal consent to marry is not large so that it need not be expected that such laws will quickly improve the general population. If in addition such persons are either segregated or sterilized the danger of their leaving illegitimate offspring will be removed; such precautions have been taken in certain of our States and will probably become general, though at present few of the laws on this subject are strictly enforced.

The study of heredity shows that the normal brothers and sisters, and even the more distant relatives, of affected persons may carry a defect as a recessive in their germ plasm and may transmit it to their descendants though not showing it themselves. It will be more difficult, perhaps an impossible thing, to apply rigidly the principles of good breeding to such persons and to exclude them from reproduction; but if in each generation those persons in whom this recessive trait appears are prevented from leaving offspring the number of persons affected will gradually grow less, other conditions being equal.

But while such negative eugenical measures are wholly commendable when applied to such defects as those named, which are certainly inherited and which render those affected unfit for citizenship, the wholesale sterilization of all sorts of criminals, alcoholics, and undesirables without determining whether their defects are due to heredity

or to conditions of development would be like burning down a house to get rid of the rats; and the only justification which could be offered for the general sterilization of the inmates of all public institutions, which is urged by some of our modern crusaders, would be the defense which some persons make for war, namely that there are too many people and that anything which will prevent the growth of population is to be welcomed.

*Effects of war on race.* Advocates of war never cease to point out its beneficial effects on the race,—how it makes men strong, courageous, unselfish, how it makes nations great, powerful, progressive. There is no doubt that war like any other great crisis discovers great men and furnishes opportunities for the development of great qualities that might otherwise remain undeveloped and unknown. But there is also no doubt that it takes the very best blood of the nations. Those who go to war are the young, the strong, the capable, while the weak, incompetent, and degenerate are left behind as unfit for military service. If conditions could be reversed and the bungled and botched, the feeble-minded and insane, the degenerate and debauched could be put in the forefront of battle some benefit to the race might result, but no increase of national greatness can compensate for the awful waste of the best thing which any nation possesses—its best blood.

Realizing that progress in evolution has been won only through struggle and that the human race owes much to the fact that man is by nature and instinct a "fighting animal" many persons who have recognized the evil effects of war have endeavored to find some substitute for modern warfare, which is no longer the wager of personal combat, but a vast impersonal mechanism of destruction. In view of the fact that "intrepidity, contempt for softness, surrender of private interests, obedience to command, must still remain the rock upon which states are built," William James proposed, as a "moral equivalent for war," compulsory service in hard and difficult occupations where dangers and hardships would be incentives to effort and where struggle for success would "inflame the civic temper as past history has inflamed the military temper."

Professor Cannon, whose work has demonstrated that the adrenal glands are par excellence the glands of combat and virility, and who recognizes the importance to the human race of maintaining the



functional activity of these glands, has proposed athletics and especially international athletic contests, such as the Olympic Games, as a "physical substitute for warfare."

The eugenical ideal is not a life of "peace, perfect peace," nor a millennium in which all struggle shall cease, but rather a life of adventure, conflict, and hard-won success. Inaction and satiety end in degeneration and progress can be purchased only by struggle. But it is not only unnecessary, it is positively irrational, to resort to war to secure these ends. As civilization advances more and more substitutes are found for war. Among these are not only athletics and sports but also struggles with natural difficulties and forces in the great warfare which is being waged for the conquest of nature. Even intellectual and political contests and competitions in skill and workmanship may to a great extent replace war as a field of adventure and emprise.

*Positive eugenical measures.* Positive eugenical measures are much more difficult to apply and are of more doubtful value than are negative ones. Of course compulsory measures requiring the best types to intermarry and have children are out of the question and encouragement and advice alone are feasible. Giving advice regarding matrimony is proverbially a hazardous performance, and it is not much safer for the biologist than for others.

*Eugenical predictions uncertain.* With much more complete knowledge regarding human inheritance than we now possess it may be possible to give eugenical advice wisely, especially with respect to physical characteristics which are hereditarily simple and generally of minor significance. But where the character is an extremely complex one such as intellectual ability, moral rectitude, judgment, and poise, which are the chief characteristics which distinguish the great man from his fellows, it will probably never be possible to predict the result before the event.

He would be a bold prophet who would undertake to predict the type of personality which might be expected in the children of a given union. Some very unpromising stocks have brought forth wonderful products. Could anyone have predicted Abraham Lincoln from a study of his ancestry? Observe I say "predict," and not "explain" after his appearance. Can anyone now predict from what kind of ancestral combinations the great scholars, statesmen, men of affairs



of the next generation will come? The time may come when it will be possible to predict what the chances are that the children of given parents will inherit more or less than average intellectual capacity, but since germinal potentiality is transformed into intellectual ability only as the result of development such a prediction could not be extended to the latter unless the environment as well as the heredity were known.

Mankind is such a mongrel race, good and bad qualities are so mixed in us, marriage is such a lottery, the distribution of the germinal units to the different germ cells and the union of particular germ cells in fertilization is so wholly a matter of chance, the influence of even bad hereditary units on one another is so unpredictably good or bad as is shown in many hybrids, even the minor influences of environment and education which escape attention are so potent in development, that the chances were infinity to one against any one of us, with all his individual characteristics, ever coming into existence. If the Greeks or Romans had known of the real infinity of chances through which every human being is brought to the light of day not only would they have deified Chance but they would have made her the mother of gods and men.

*Selective mating.* But granting the impossibility of predicting the character of children it may well be asked if good general advice may not be given regarding the choosing of a mate. Many people have thought so, and if all that has been said or written on this subject were to be gathered together I suppose that there would not or should not be room for it in all the libraries of the world. It is generally admitted that few lines are wholly free from hereditary defects and the question has often been asked what the eugenical practice should be in such cases. Of course people with really serious hereditary defects should not have children. If the defects are slight Davenport has suggested that they may either be disregarded or weakness in any character may be mated with strength in that character. That people with only slight hereditary defects should not marry at all is a counsel of perfection.

On the other hand it would be a dangerous rule to propose that persons having really serious hereditary defects should be mated with those who are strong in those characters on the ground that in general strength in a character is dominant over weakness. It has been sug-

gested that a normal man who marries a feeble-minded woman would have only normal children, since both genius and feeble-mindedness seem to be recessive when mated with mediocrity or normality. But in all such cases the weakness is not neutralized or removed but merely concealed in the offspring and is therefore the more dangerous. If a man chooses to marry a feeble-minded woman he at least does so with his eyes open and he need not be deceived. But the normal and perhaps capable children of such a union carry the taint concealed in their germ plasm and if they should be mated with other normal persons carrying a similar taint some of their children would be feeble-minded, and thus the sins of the parents in mating weakness with strength would be visited upon the children to the  $n$ th generation. Such a policy of concealing weakness by mating it with strength is wholly comparable with the custom once prevalent of concealing cases of contagious diseases, and may properly be characterized as the "ostrich policy."

After all in the choosing of mates a combination of instinct and intelligence is probably the safest guide. Our instincts, built up through long ages, are generally adaptive and useful, and if they be guided by reason the result is apt to be better than if either instinct or reason acts alone. More need not be said on this subject, since it is treated ad infinitum in works of fiction and in ladies' journals.

*Contributory eugenical measures. General education.* In addition to these negative and positive eugenical measures many conditions may be classed as contributory to eugenics. One of the most important of all contributory measures is the general education of the people regarding heredity. The widespread ignorance on this subject is profound and very many offenders against the principles of good breeding have sinned through ignorance. Any general reform must rest upon enlightened public opinion, and the schools, the churches, and the press can do no more important work for mankind than to educate the people, after they have been educated themselves, on this important matter.

Society too may cultivate a proper pride in good inheritance. Much of value would be accomplished if the silly pride in ancestral wealth or position or environment which touched our forebears only superficially and never entered into their germ plasm, or the still sillier claims of long descent, in which we are all equal, could be replaced

by a proper pride in ancestral heredity, a pride in those inherited qualities of body, mind, and character which have made some families illustrious. A proper pride in heredity would do much to insure the perpetuation of a line and to protect it from admixture with baser blood.

*Coeducation versus monasticism.* Among other contributory measures which serve to promote good breeding among men must be reckoned coeducation, as well as other means of promoting good and early marriages. The president of a large coeducational institution once said that if marriages were made in heaven he was sure that the Lord had a branch office in his university. I had occasion a few years ago to investigate the eugenical record of a coeducational institution, which is not unknown in the world of scholarship, and I found that about 33 per cent of the recent graduates had married fellow students, that there had been no divorces and that there were many children. There is no doubt that coeducation promotes good and early marriages and that it is not necessarily inimical to good scholarship even though it violates the spirit of mediæval monasticism. There was a time when it was supposed that a scholar must live the monkish life of seclusion and contemplation, but the monasteries are disappearing the world over, and it is time that the monastic spirit should go out of the colleges and universities.

On the other hand the colleges exclusively for men or women appear to have a bad influence on the marriage rate and birth rate of their graduates. Johnson has shown that 90 per cent of all the women of the United States marry before the age of forty, but that among college women only half that number have married at the same age. As a result of investigations at one of the leading women's colleges he finds that the marriage and birth rate of the most brilliant students, who have been elected members of Phi Beta Kappa, is lowest of all. Cattell says that a Harvard graduate has on the average three-fourths of a son, a Vassar graduate one-half of a daughter.

At present early and fruitful marriages among able and ambitious people are very unfashionable and are becoming increasingly impracticable. If society has any regard for its own welfare all this must be changed. As Galton has shown, the race that marries at twenty-two instead of thirty-three will possess the earth in two or three centuries.



The good of society demands that we reverse our methods of putting a premium upon celibacy among our most gifted and ambitious young men and women, and if monastic orders and institutions are to continue they should be open only to those eugenically unfit.

*The declining birth rate. Stationary population normal.* Among animals and plants in a state of nature the number of individuals in each species remains fairly constant from year to year; that is, only enough young are born and survive to take the places of mature individuals that die. But when a species is placed in new and favorable conditions it may for a while increase at an amazing rate until the pressure of population becomes sufficient to reestablish an equilibrium between the birth rate and the death rate. Thus when the English sparrow was introduced into the United States it increased at a phenomenal rate for a number of years, but now the number of individuals in any given locality remains about the same from year to year, the birth rate merely compensating for the death rate. This equilibrium is brought about in the main by increased mortality, especially among the young, though decreasing fecundity may play a minor part.

Essentially the same principles apply to human populations. Up to two or three centuries ago the populations of the older countries of the world were practically stationary. Fecundity was relatively high but the death rate was also very high, the excess of population in each generation being carried off in large numbers by war, pestilence, and famine. Then owing to the developments of science and industry and to the opening up of new countries a period of remarkable expansion of population began. The population of Europe, which was about 175,000,000 in 1800, increased to 420,000,000 in 1900, and this in spite of the fact that about 35,000,000 migrated from Europe to new countries during this period. This great increase in the population of Europe was due primarily to reduction of the death rate since the birth rate also declined slightly during this period, while in the newer countries there was both an increase in the birth rate and a decrease in the death rate.

It is perhaps an open question how long the advances of science in rendering available the natural resources of the earth may be able to keep pace with increasing population, but it is evidently impossible for this great increase in the population of the world to go on indefi-



nately; sooner or later it must come to an end and the population again become stationary. Already the birth rate is decreasing more rapidly than the death rate in all the western countries of Europe and this movement must ultimately extend to all parts of the world and lead to a checking of the great increase in population which has characterized the last two hundred years. This approach to a stationary population is both a normal and a desirable thing, for no one could wish to see the population increase more rapidly than the supply of food or other necessities of life; and of the two possible methods of checking population few would hesitate to choose a decreasing birth rate as preferable to an increasing death rate.

It is not therefore the declining birth rate in the general population that should cause alarm but rather the declining birth rate in the best elements of a population, while it continues to increase or at the least remains stationary among the poorer elements, and there is abundant evidence that this is just what is taking place. The descendants of the Puritans and the Cavaliers who have raised the cry for "fewer and better children" are already disappearing and in a few centuries at most will have given place to more fertile races of mankind. Many of the old New England families are dying out and their places are being taken by recent immigrants. The few exceptions are merely eddies in the current that is bearing them to doom. In Massachusetts the birth rate of the foreign born is twice that of the native population while the death rate is about the same for both. The same is true of the older families in many parts of the world.

Cattell has made a statistical study of the families of 917 American men of science and he finds that the average size of family of the parents of these men was 4.66 children, whereas the average size of family of these men is 2.22 children. In one generation the fertility of these lines has been reduced by more than half. The causes of this decline are chiefly voluntary being assigned to health, expense, and other causes.

*Death of families.* But the causes of sterility are not only social and voluntary ones, which could be changed by custom and public opinion; there are also involuntary and biological causes of a deep-seated nature. Fahlenbeck has made a study of 433 noble families of Sweden which have become extinct in the male line, and he shows that the last male died unmarried in 45 per cent of these families, and

before the age of twenty-one in 39 per cent, while the line ended in infertile marriage in 11 per cent and in daughters only in 5 per cent.

The extinction of families, however, is often confused with the extinction of family names, which means only that the family has died out in the direct male line. Biological inheritance does not necessarily follow family names. Owing to the elimination of one-half of the chromosomes in the formation of the sex cells and the replacing of these in fertilization by chromosomes from another source it happens that many persons bear the name of some progenitor but do not have a single one of his chromosomes or inherited traits; on the other hand, many persons who do not bear his name may have some of his chromosomes and traits. Assuming that there are forty-eight chromosomes in the human species and that these never break up or lose their identity it is evident that no person can inherit from more than forty-eight ancestors though he may be descended from an innumerable number.

Much confusion is caused also by the expression "hereditary lines," as if each family were separate and distinct from all others. But this is, of course, never true. The only hereditary lines which exist are those of individual chromosomes or genes and these divide and diverge like the branches of a tree. An individual containing many chromosomes received from many sources belongs to no single hereditary line, but rather to a network of many lines.

It has been said that if the birth rate of the *Mayflower* families continues to decrease at the present rate for the next three hundred years, all the survivors at that time could be sent back in the original *Mayflower*. But there is no reason to suspect that the decreasing birth rate will go on indefinitely at a constant ratio, and to assume that it will do so is merely to look forward to the extinction of all families, classes, races, and nations in which the birth rate has been decreasing; this includes practically the entire population of the United States and Western Europe and it is evident that such a result while theoretically possible is not at all probable. Considering the large number of collateral lines which have come from the *Mayflower* stock and the enormous number of individuals who think they can trace their ancestry back to the *Mayflower*, it is incredible that all these should be reduced to a company no larger than that which came over on that famous ship.

Broman points out that most noble families of Europe die out (probably the direct male line only is meant) after one hundred to two hundred and fifty years and generally do not live beyond the third generation. The same is true of the families of great scholars, artists, and statesmen. Possibly one cause of such declining fertility may be found in too great brain activity, but there is no doubt that in many instances it is due to luxurious living. On the other hand bodily fatigue and simple living favor fertility in both animals and men. Wild animals brought into captivity where they have comfortable quarters and an unwonted abundance of rich food are usually infertile; and the conditions of life of the upper classes of society are almost as unfavorable to fertility as is captivity with wild animals. It is evident that if we had fewer luxuries we could have, and could afford to have, more children.

But animals in captivity may gradually become adapted to their new conditions so as to become fertile, and there is evidence that man also may undergo a slow adaptation in this regard to conditions of high civilization. Some royal families of Europe go back six or eight hundred years, and in general if a family survives the new conditions of affluence and luxury for more than three generations it may become more or less adapted to the new conditions.

*Birth control.* No eugenical reform can fail to take account of the fact that the decreasing birth rate among intelligent people is a constant menace to the race. We need not "fewer and better children" but more children of the better sort and fewer of the worse variety. There is great enthusiasm today on the part of many childless reformers for negative eugenical measures; the race is to be regenerated through sterilization. But unfortunately this reform begins at home among those who because of good hereditary traits should not be infertile. Sterility is too easily acquired; what is not so easily brought about is the fertility of the better lines. Galton was far wiser than most of his followers for he realized the necessity of increasing the families of the better types as well as of decreasing those of the worse.

What Bernard Shaw regards as the greatest discovery of the nineteenth century, viz., the means of artificially limiting the size of families, may prove to be the greatest menace to the human race. If it were applied only to those who should not have children or to those who should for various reasons have only a few children



it would be a blessing to mankind. But applied to those who could and should have many children it is no gift of the gods. No one denies that the chief motive for limiting the size of families is personal comfort and pleasure rather than the welfare of the race. The argument that people should have no more children than they can rear in comfort or luxury assumes that environment is more important than heredity, which is contrary to all the biological evidence. In the breeding of horses or cattle or men heredity is more potent than environment; and it is more important for the welfare of the race that children with good inheritance should be brought into the world than that parents should live easy lives and have no more children than they can conveniently rear amid all the comforts of a luxury-loving age.

The method of evolution in the past has been the production of enormous numbers of individuals and the elimination of the least fit. The modern method of improving domestic races is to select for reproduction the best types from large numbers of individuals. Nature has provided an almost infinite wealth and variety of potential personalities in human germ cells but only an infinitesimal number ever come to development. If this number is still further reduced by artificial means and without regard to fitness the race will be made the poorer not merely in quantity but also in quality. The optimism of those who believe that supermen may be produced by artificially limiting the number of children is a foolish and fatal optimism.

Finally for those who are denied the privilege of parenthood and upon whom sterility is forced by whatever circumstances there is a lesson of value to be drawn from the social insects. The sterile members of a colony of ants or bees are forever denied the possibility of having offspring of their own, but they become foster mothers to the offspring of the queen. They tenderly nurse, care for, and rear the young of the colony. There are many children in the world who need foster mothers and fathers; there are many men and women in the world, both married and unmarried, who need adopted children. "Go to the ant, thou sluggard; consider her ways and be wise."<sup>1</sup>

<sup>1</sup>An excellent glossary of the terms used in this selection will be found in Conklin, *Heredity and Environment*, rev. 4th ed. pp. 353-361. The whole text may be used most advantageously by classes which have a background in biology.—ED.



42. THE PROBLEM OF PRACTICAL EUGENICS<sup>1</sup>

Practical eugenics is after all concerned with two fundamental problems:

1. The production of a sufficient supply of leaders of ability and energy for the community; and
2. The provision of intelligent and healthy men and women for the great army of workers.

If the great army of workers be maintained more or less at a subsistence wage, then the second fundamental problem of practical eugenics is not a question of moral teaching to be backed by a social sanction—those methods can apply only to our first fundamental problem. It is a question of economic value and of legislative sanction.

In the mass of the community the child is a ware, and its production is singularly sensitive to any legislative action which alters its economic value. There is, I believe, one way, and one way only, of solving this problem: we must reverse the effect of the factory acts which have penalised parentage and handicapped motherhood. But the reversal must be done in a differential manner, sound parentage and healthy motherhood must be given a substantial economic advantage over not only childlessness, but over unsound parentage and feeble motherhood; the well-born child must again be made a valuable economic asset. This is the central problem of all practical eugenics,—eugenics as a doctrine of national welfare is a branch of national economy.

As far as I am aware all forms of employment, individual, municipal, and governmental service in this country, directly penalise parentage and motherhood. The single exception to the rule that I know of anywhere is in the pensions of the Indian Civil Service, which provide directly for the widow and for the education of each individual child to the age of twenty-one, but thus far without any regard to the probable quality of the stock. Our eugenic object must be to regard the quality of the stock in at least a rough and ready way when we endeavour legislatively to reverse the effect of the factory acts.

<sup>1</sup> By Karl Pearson, F. R. S., Galton Professor of Eugenics and Director of the Francis Galton Laboratory for National Eugenics, University of London. Adapted from *The Problem of Practical Eugenics*, pp. 22–25, 28–32. Published by Dulau and Co., London, 1909. Printed at the Cambridge University Press.

Before touching possible directions of reform, I want to point out to you that while all penalisation of parentage is bad,—for, given the material, Nature, the first and most thorough practical eugenist, will play her part in selection—yet our special penalisation is excessively bad; for it has, owing to municipal and charitable institutions, emphasised the penalty in the case of the better type of parent.

The thrifty, provident parents who wish to provide a home life for their offspring not only find themselves penalised as against their childless competitors, but as against the thriftless and improvident who throw the burden of their children on public rates and on private charities. I want to bring this out emphatically because it seems to me an essential part of practical eugenic policy to protect and fight against this municipal and charitable method of penalising better parentage. I draw your attention to recent statistics of the average size of families in degenerate and pathological stocks (Table I). You will see that the old rate has been maintained in these stocks; and not a little of this is due to the fact that members of these stocks are largely provided for at public expense.

TABLE I. FERTILITY IN PATHOLOGICAL AND NORMAL STOCKS<sup>1</sup>

## PATHOLOGICAL

CLASS	AUTHORITY	NATURE OF MARRIAGE	SIZE OF FAMILY
Deaf mutes (England) . .	Schuster	Probably completed	6.2
Deaf mutes (America) . .	Schuster	Probably completed	6.1
Tuberculous stock . . .	Pearson	Probably completed	5.7
Albinotic stock . . . .	Pearson	Probably completed	5.9
Insane stock . . . . .	Heron	Probably completed	6.0
Edinburgh degenerates . .	Eugenics Laboratory	Incomplete	6.1
London mentally defective	Eugenics Laboratory	Incomplete	7.0
Manchester mentally defective . . . . .	Eugenics Laboratory	Incomplete	6.3
Criminals . . . . .	Goring	Incomplete	6.6
Mean . . . . .			6.2

<sup>1</sup> Pearson, *The Scope and Importance to the State of the Science of National Eugenics*. Dulau and Co., London.

## NORMAL

CLASS	AUTHORITY	NATURE OF MARRIAGE	SIZE OF FAMILY
English middle class .	Pearson	15 years at least <i>begun before thirty-five</i>	6.4
Family records . . . .	Pearson	Completed	5.3
English intellectual class	Pearson	Completed	4.7
Working class, N. S. W.	Powys	Completed	5.3
Danish professional class	Westergaard	15 years at least	5.2
Danish working class .	Westergaard	25 years at least	5.3
Edinburgh normal artizan . . . . .	Eugenics Laboratory	Incomplete	5.9
London normal artizan .	Eugenics Laboratory	Incomplete	5.1
English intellectuals . .	S. Webb	Said to be complete	1.5
American graduates . .	Harvard	Complete	2.0
Mean, omitting last two . . . . .			5.5

All separate lines of inquiry tend to confirm the view that the districts of a good social character have the lower birthrates; that the anti-social stocks are at present most prolific, and this whether we measure the gross or net fertility. Now the last half century in our history has been one of which the central historical feature has been the attempt by legislation to improve the condition of the people. And what will be the final judgment of history on this great movement? It will have to record that the social evolution of the last fifty years has produced the following effects:

1. A markedly lower birthrate.

2. A correlation of the higher grades of this lower birthrate with socially undesirable characters.

There has been not only a penalisation of parentage, but a penalisation of the better parentage in a more marked degree. The child, ceasing to be an economic asset, has become a burden, but poor law and charity have largely succeeded in lifting this burden from the shoulders of the degenerate parents. We have not only hindered Nature from weeding out social wastage, but we have made the conditions increasingly more favourable to the multiplication of this degeneracy. Practical eugenisists must urgently demand the reversal of all legisla-

tion which penalises the parentage of the fit, and the restriction of all charity which favours the parentage of the unfit. We must directly or indirectly produce differential wages for the fit parent; in other words there must be endowment of fit parentage at the expense of the unfit parent and of childless men or women.

The state by hasty vote-catching legislation with regard to old age pensions has just lost a splendid opportunity for eugenic reform. The time when the workman really wants most aid is when his children are young and are wholly dependent upon him. If his offspring have been sound in body and mind his dependence upon them in old age is not in itself so wholly unreasonable. In a society where children are few and many of those few degenerate, the care of the aged becomes no doubt an urgent problem. Such genuine demand as there has been for old age pensions is not a little based on the declining birthrate and the increasing incapacity of many who are born. Had we adopted a general system of insurance similar to that of Germany in its origin, i.e. state, employers, and workmen themselves contributing—but different in its application—namely insurance against invalidity, with provision, as with the Foresters, for motherhood, and, as in the Indian Civil Service, for each child, we could at once have reversed the evil effects of the factory acts as far as these penalise parentage and handicap motherhood. It needs but a stage further, the differentiation of the provision for children and motherhood according to the fitness of parentage, and we have a complete eugenic social scheme. At first a very rough standard of differentiation would suffice—a fairly clean bill of health for both parents, an absence of obvious taint in their immediate stock, a moderate school standard passed, and a minimum wage value in the market to test general ability. Even without this slight test—which at any rate would exclude the epileptic, the deformed, the insane, and the deaf-mute stocks from the benefits of the scheme—we should by a simple insurance fund of this kind have removed the present disabilities of parentage which, as I have endeavoured to show, are practically differential with regard to the fitter parentage.

When we regard the present six or seven million pounds a year—soon to be ten or more millions—given to a mere environmental reform, which applied long after the reproductive age cannot possibly produce any permanent racial change, how deeply one must regret



the want of knowledge and of statesmanship, which overlooked the naturally disastrous policy of the factory acts, and did not seek its opportunity to endow parentage rather than senility with those annual millions! Even as a party cry I believe the endowment of parentage would have been effective; as a step to meet grave racial dangers it would have possessed real insight.

So much then for the legislative element in eugenic reform. When we turn to the field of charitable and social enterprise we see at once the very large amount of work that can immediately be done in educating public opinion in a right direction. We see enormous sums annually given for charitable purposes without the least attempt to differentiate between the recipients who spring from fit and those who spring from unfit parentages, between the recipients who are of racial value and those who are mere social wastage. Asylums abound for the imbecile and the cripple, homes for waifs and strays, orphanages, hospitals, the boast of which is that they receive without selection all sufferers. Do the subscribers to these and many other kindred institutions ever consider that they are directly penalising fit parentage by enabling the unfit parent to obtain provision for his deformed or diseased offspring? Is it not within the experience of many of us that the relatives, who wish to get a child into an orphanage, are more likely to bring him to the head of the poll, if they can say that his father died of phthisis, that his mother is delicate and unable to work, and that he is one of eight children five of whom are totally unprovided for, the three others being two in an epileptic home, and the third an imbecile? Is it not possible by aid of a little educative propagandism of a eugenic character to divert some of the thousands we see every week willed to indiscriminate charity into a more rational and national channel? Why should they not be earmarked in even some small percentage of cases for the offspring of fit parentage?

#### 43. THE VALUE AND LIMITATIONS OF EUGENICS<sup>1</sup>

Social life consists in the interaction of human beings, and social evolution—whether progressive or the reverse—in the consequent formation and modification of what, for lack of a better single word, we may call the social tradition. Social improvement therefore is not

<sup>1</sup>From *Social Evolution and Political Theory* (pp. 40-79), by Leonard T. Hobhouse.

the same as racial improvement. It is quite conceivable that with no change in the average level of racial capacity, the cumulative efforts of generations to better their life might produce a very great change in the social structure, and in point of fact it appears to be mainly by such a process of the summation of effort that the actual achievements of mankind have been effected. But at this point the biological critic may very fairly break in with a new criticism. "Granted," he may say, "all that you urge on behalf of the social tradition. It still remains the incontestable truth that society is composed of individuals whose qualities determine the nature of their interactions. No doubt these qualities are very complex. Man is a being of mixed disposition. There is a mingling of gold and brass in every soul, and circumstances may decide which is to show on the surface. We grant then that there are wide limits of variation within which, without modification of the racial type, society may advance or retrograde. None the less we come back to the qualities of individuals as the ultimate determinants. Their average merit must affect the standard of social action. Conceive the racial level—by which we mean the average level of hereditary endowment—raised, and to that extent you facilitate social progress. Conceive it lowered, and to that extent you arrest progress and favor deterioration." The contention thus modestly put cannot be denied. The very efforts that men make to improve their individual condition and the social order are themselves of course the outcome of their qualities; and if these qualities take shape and find expression in the medium of the social tradition, it is equally true that they form the ultimate reserve of energy underlying the social changes by which that tradition is maintained, improved, or destroyed. "Very well then," the Eugenist proceeds, "it is admitted that the quality of the stock is of high importance. It is admitted also that natural selection is no longer capable of performing its function in weeding out inferior stocks. It is admitted that we cannot revert to the use of natural selection without destroying the characteristic work of civilization. We cannot undo the structure of mutual aid and mutual forbearance which civilized progress has painfully built up. What we can do is to substitute for natural a rational selection. We may discourage and even prevent the perpetuation of inferior stocks, and for this purpose a rational conception of fitness and a knowledge of the laws of heredity is all that we require. All

that has been urged above against the conception of the struggle for existence may be true. It holds true none the less that selection is necessary to racial progress and to the avoidance of racial deterioration, and even if the social reformer could ignore the need of improvement in the race, he must take a very serious view of the possibilities involved in deterioration. He must look very carefully at the reforms which he is proposing, for fear any such vital injury to the life-blood of society should be entailed by them."

Without examining all the details of this argument, we may admit the main contention to be theoretically sound. The improvement of the stock by rational selection is in the abstract a clearly legitimate object. It involves no such contradiction with the inherent trend of progress as is contained in the principle of leaving society to the operation of the unchecked struggle for existence. The child once born has a claim upon society which can only be ignored at the cost of abandoning the basic principles of the humanized social order. But the claim to bring children into the world is quite another matter. It is no novel point of ethics to forbid parentage to a person of deeply vitiated stock, and Eugenists who draw a distinction between the right to live and the right to bring to life are within their rights. So far then we admit that the eugenic conclusion follows from its premises. But what are the premises? We are to assume, first, that we have a true conception of social worth, of the nature of human progress, and of the qualities making for it. We are to assume, secondly, that we have competent knowledge of the laws of inheritance whereby we can so play upon the race as to engender the qualities that we desire. This is, to succeed in eugenics we need a competent understanding both of the eu and of the genics. We must know what we want to breed for and how we propose to breed for it. Have we the clearness of conception as to the first point and the fullness of knowledge as to the second which are necessary to the useful development of eugenics?

As to the first question, the nature and criterion of social worth, I think we may trace two lines of thought among eugenic writers which it is highly important to distinguish. The more careful admit that for a thoroughgoing application of their principle we should need a well-grounded social philosophy. They admit that little is known as to the causation of many of the higher human qualities and fully grant



that we should be very careful in, so as to say, passing sentence of execution on a stock which may after all contain serviceable elements mixed with its blemishes. But they say there are many qualities about which there can be no doubt. We do not want insanity; we do not want feeble-mindedness; we do not want alcoholism; we do not want syphilis; we do not want the stocks which are infected with such taint. We want to extinguish them as evil in themselves and as liable to infest sound stocks. We want to isolate those definitely infected much as we isolate an infectious disease. We want to prevent them from bringing into the world children in their own image. When the principle is admitted and the experiment has been made in these cases that are clear, it will be time enough to consider those that are more doubtful. We shall in the meantime have gained some knowledge of what can be done by these means and how it can be done with the least possible infliction of suffering.

On this side we see the eugenic case at its strongest. But even here we must put in one caveat. There may be blemishes which are very serious in themselves, but which nevertheless do not afford adequate grounds for pronouncing capital sentence upon a stock. As an illustration, I will take the case of tuberculosis. The heredity of this disease is still a matter of some question. For the sake of argument I will assume the diathesis to be hereditary. No one can deny that it is in that case a serious blemish. But before we proceeded to pass sentence of exclusion from the rights of parenthood on any individual of tubercular stock, I think we should have very carefully to weigh two questions. The first is, what are the other qualities of the individual? Liability to tubercular infection involves no mental or moral turpitude. It may coexist with the highest qualities on this side. I am not aware that it even involves any other form of physical weakness, though some other forms of physical weakness may no doubt increase the liability to tubercular infection. Now, if we stamp out the tubercular tendency, what other qualities are we stamping out along with it? If an otherwise gifted stock has this blemish, will there be net loss or net gain in its disappearance? I do not think that this question can be answered offhand. But if our general view of progress is correct, society has on the whole gone forward by the development of those arts which assist to keep alive many who without such aid would have perished; and considering the very wide



prevalence which is now believed to obtain of some form or another of the tubercular condition, it may be doubted, whether if the tubercle had been left to do its work unchecked, there would have been any social progress at all. Secondly, it is well within the bounds of possibility that, by the development of scientific hygiene, instead of eliminating the tubercular stock we may succeed in eliminating the tubercle. In that case this particular tendency—unless provably correlated with some other form of irremediable weakness—will no longer rank as a defect. If in the meantime we had prohibited the marriage of members of such stocks, we should have lost all that they might have contributed to the population and its well-being for the sake of no permanent gain.

These two points may be stated generally. We must be certain that the stock which we seek to eliminate is so vicious that its removal is a net gain. We must be sure that the vice is irremovable and not dependent upon conditions which it is within our power to modify. This latter condition implies a certainty as to the operation of heredity, of which more will be said. But meanwhile, assuming those two conditions fulfilled, there is a case for forbidding parentage—always upon this further provision that in so doing we do not allow ourselves to be driven to methods which by violating the painfully acquired traditions of civilization will aid the ever present tendencies to re-barbarization. On these grounds the case of the feeble-minded becomes perhaps the strongest for the application of eugenic methods. We have here a type which it is becoming possible to identify with fair precision. It is found in men and women who are not capable of independent existence, but who continually drift to the gaol or the workhouse, who are fertile, and whose condition is asserted to be hereditary in a marked degree. On grounds of humanity we have good reason to undertake the care of this class, and we have a right to demand in return the separation of the sexes. We are dealing with people who are not capable of guiding their own lives and who should for their own sake be under tutelage, and we are entitled to impose our own conditions of this tutelage, having the general welfare of society in view. Lastly, there is no reason to think that this condition is an isolated and, as it were, accidental defect in a nature that is otherwise healthy and sound. The evidence, I understand, is rather that it is a form of general deterioration not correlated with any

specially good qualities by way of compensation. Such a case is, I think, one of the strongest that Eugenists can press in the present state of our knowledge.

On such lines as these, physiological or medical lines as we may call them, eugenics may have a part to play in relation to the social problem. But meanwhile there is a second line of thought discernible among Eugenists and larger claims put forward bearing on political thought as a whole which must be very carefully scrutinized. By no means all eugenic writers are so careful in their application of the tests of unfitness as those to whom I have referred. To read a good deal of what is written on this subject one might suppose that the whole question is as simple as daylight. Often it would seem as if the actual position of classes in society was taken as a measure of their worth. Thus we hear a great deal of the relative sterility of the richer classes and the fertility of the poorer, as if this were in itself sufficient evidence of the multiplication of the unfit. Now, the actual forces which determine a man's position in modern society are, first, the inheritance of property and other social privileges, and secondly, his capacity for making and keeping money. The first of these, far from affording a test of personal merit, tends to mask the actual inequalities of endowment. One knows people of the essential pauper character in all classes. But whereas if they are born among the well-to-do they exist on means of their own or find relations on whom they succeed in fastening, among the poor they drift to the street corner, the casual ward, the workhouse, and the gaol. One would suppose it axiomatic that without perfect equality of opportunity actual position in the social scale would be no criterion of relative merit; and yet we find at least one able writer so enamoured of the qualities of the British upper and middle class that he manages on eugenic grounds to find reasons for the maintenance of class distinctions. But further, given a genuine freedom of competition and full equality of opportunity, the qualities which bring men to the top are not necessarily social qualities. Some qualities by which men get on are good, some indifferent, and some bad. Which of these will predominate depends on the character of the social organization. The financial abilities which bring men to the top to-day may come to be regarded by our descendants much as we regard the qualities of a robber baron who prospered under mediæval conditions. Upon the whole it is probable that the

harder and more self-regarding qualities still play a larger part than the gentler and more social in determining success, and we are not surprised when we find writers of the type to which I refer telling us plainly that self-reliance and endurance are the qualities which they wish to breed. Now, self-reliance and endurance are very good qualities, and we must not depreciate them, but a view of human nature which centers on these to the omission of the other side of character is a view which has got out of focus. The possibility of such a view indicates the absolute necessity of a social philosophy as a basis of eugenics the moment that eugenic considerations are used to determine the main lines of social reform.

In fact, when they begin to criticize social reform, some Eugenists of the class to which I am referring, political Eugenists as we may call them, come perilously near to the old arguments from the theory of natural selection. They make reservations, it is true, which must stand to their credit. They admit that the social conscience is an indispensable factor in progress, and that what has been done in the way of ameliorative legislation cannot be undone. But, they argue, as long as natural selection reigned the standard of the stock was kept up. The weakling was eliminated; the strong survived. Now natural selection is superseded. The weakling is preserved. He is allowed to breed. Relatively he is more fertile than the fit. The birth-rate diminishes most among the higher ranks of society. More and more the nation of the future will be recruited from the unfit stocks. Meanwhile the burden of maintaining the unfit falls in the shape of poor rates and state taxes on the shoulders of their betters, who are thus positively handicapped in the struggle and disinclined to rear families. All social legislation is directed to the improvement of the environment, but the improvement of the environment has no effect on the stock. It may in some degree—Professor Pearson's school argues that it is in a very slight degree—improve the qualities of the individual, but the qualities so acquired will not be handed on. Unless we so alter our institutions as to encourage the propagation of the fit and discourage the unfit, our race is doomed.

1. If these jeremiads were well founded, we should expect to see the signs of deterioration already manifest. After all, the suspension of natural selection is no new phenomenon. It has, as we have shown, been in progress ever since civilization began and even before civiliza-



tion began. True, with the decline of the infantile death-rate it has been carried much farther, but this is only the continuance of a very old process, and that this process can ever go so far as entirely to eliminate natural selection is unlikely. Variations which are sufficiently extreme are likely always to carry early death or infertility as their effect. In our own times what proof is there of actual deterioration? As it happens a committee was instituted in my own country to investigate this question some six years ago. There was at that time a widespread uneasiness arising from the increasing number of recruits who were rejected on medical grounds. Physical deterioration was the thing most feared, and it was reasonable to suppose that under modern considerations it would be on this side if anywhere that deterioration would be apparent. The committee was not biased in favor of any optimistic view, and all available evidence in favor of deterioration came before them. The result was that while they found that there was no sufficient material as at present available to warrant any definite conclusions on the question of the physique of the people by comparison with data obtained in past times, yet "the impressions gathered from the great majority of the witnesses examined do not support the belief that there is any general progressive physical deterioration." Familiar social statistics support the negative view. The heavy decline of the death-rate during the last forty years is undoubtedly due to improved sanitary and social conditions, but it also indicates an improvement of general health, and if there were any strong tendency to the deterioration of the stock at work, we should expect it to appear as at least a counterpoise. The decline of pauperism from about fifty per thousand of the population in 1850 to twenty-one per thousand in the present year is also due to general social progress; but it has gone on long enough to be seriously counteracted by the growth of a class of hereditary paupers, supposing that such a class were in fact increasing. Of the diminution of crime in proportion to the population—which, notwithstanding a recent rise, marks the period as a whole—the same may be said. Lastly, the rise in real wages, which is slow but general in England and is spread over a century, tells the same tale. Wages have risen owing to a variety of social efforts, but the higher wage could hardly in the competition of the world's market be earned by a continuously deteriorating population of workers. The only unfavorable comparison



of any weight that can be instituted with the past is in the matter of insanity, and here the interpretation of the figures is subject to serious doubt. There is, says the committee, in the report which I have quoted, no doubt as to the great increase of insane persons under treatment, but the question is, first, how far these figures indicate true increase of insanity, and secondly, if this is true, as to the causes of the increase. On the first point they rely chiefly on the evidence of Dr. Wigglesworth, who, they say, admitted that the statistical information was incomplete, and that the conclusions to be drawn from it varied according as it was read and looked at, but on the whole, though he would like to express himself with reserve, was inclined to think that the incidence was increasing. You see how cautiously the opinion as to the last fact is expressed. When we come to the interpretation, we find Dr. Wigglesworth equally cautious as to the argument that the increase of lunacy can be taken as evidence of physical deterioration. So far as England is concerned it appears to be connected with density of population, and therefore, if it is real, to be rather an effect of the worst side of the social environment—the crush and the strain of industrial life—than of deterioration of stock.<sup>1</sup> Upon the whole we are justified in the conclusion that whatever the future has in store the process of deterioration has not begun.

2. In the absence of inductive evidence of race deterioration, we may usefully go on to inquire whether there is any reason in the nature of the case why the suspension of natural selection within the limits up to which such suspension is possible should lower the racial standard. To many biologists the question refutes itself. The race is forever varying, but its variations for the worse are nipped in the bud. Once allow them to grow and they must infect the sounder stocks. At a minimum they must lower the racial average, and this process of deterioration will go on indefinitely. It is by means of the selection of small variations for the better that the racial standard is improved and that new varieties and new species are formed. Similarly, by the indefinitely continued propagation of variations for the worse, the whole standard of a race will be lowered. This large way of looking at the facts, however, implies a biological theory

<sup>1</sup> There is in fact more evidence of the increase of lunacy in Ireland, which has for historical reasons failed in large measure to share in such social progress as the larger island has achieved.

which is by no means universally accepted. How far a race is actually capable of being modified by the accumulation of small variations has become in recent years a matter of acute controversy, and it seems to be the better opinion that a distinction must be drawn between the less important variations known as fluctuations and the more deep-seated changes to which the name of mutations has been given. It is probable that in the case of smaller fluctuations there is a constant tendency to return to the mean or standard of the race, and if we can imagine a race wholly immune from natural selection and not striking out any new line by a definite mutation, the mean standard of the racial type would be roughly maintained for an indefinite period. But be that as it may, we have to point out once more that the view taken of the effect of natural selection is one-sided, for once again it is assumed that it is only the unfit who are eliminated. Now if once for all we get rid of the phrase "selection of the fit" and substitute for it "elimination of the unsuccessful," which is what is really meant, we shall see the facts in a different light. In a race subject to a severe struggle for existence, the types which are unsuccessful under the prevailing conditions will constantly be eliminated; but it is possible and more than possible that these types should include among them the most valuable stocks for the purposes of society. Where the conditions of life are hard, where there is little regard for justice and mercy, and in a word for all the higher ethical qualities, those who possess these qualities have less chance of prospering and leaving descendants behind them. In point of fact in earlier forms of human society there is good reason to think that social progress was seriously interfered with by the actual elimination of the best types. From this point of view political and civil liberty, social and economic justice, are the most eugenic of agencies. Much is said by Eugenists of the decay of nations in the past by the failure of the best types to perpetuate themselves. I know of no case, not even that of the Roman Empire, in which this suggestion is susceptible of any clear historical proof, for the lamentations over the decay of the Roman population date from the first century before Christ, a period which history has shown to have been, not one of retrogression, but of progress,—a progress which was well maintained for two centuries after the time when these jeremiads had become familiar. It is also forgotten by those who make use of the half-told tale of Roman decadence that,

as the Roman Empire consolidated itself, it drew for its support, not on the old aristocracy of Rome, but on the newer population of the Mediterranean basin, and that this population was decadent or was seriously affected by the relatively fast multiplication of inferior stocks is a suggestion for which I have never seen any evidence. On the other hand, if we look at the artificial elimination of the best stocks by political and religious despotism, we get much more definite evidence of national deterioration. Take, for example, the case of Spain in the sixteenth century. We need not assume that the Protestant reformers were man for man better than the old believers; but we may fairly suppose that a large proportion of the more independent minds and more active thinkers would be attracted by the new creed, and when we find that these were eliminated by the process of *auto da fé* to the number of tens of thousands, we can well understand that in Spain the selection effected by political circumstances may have been such as to denude the country of an undue proportion of its most vigorous stocks. Speaking broadly, if the more social qualities are to have their chance, it is on political and social institutions that that chance must depend. Freedom of thought and action, freedom of choice by women, the repression of violence and fraud, these are all eugenic agencies which tend to diminish the contrast between the successful and the fit. So regarded, the improvement of social conditions is seen to tell both ways in its effect on the stock. If it admits of variations for the bad, it also allows for variations for the good. So far the two tendencies cancel one another. But we may go a step farther. The actual progress of humanity depends far more on the survival of the best than on the elimination of the worst; provided that the highest types can always have breathing space, we may be assured that social, as distinct from racial, progress will continue. Eugenically considered then, the broad duty of society is so to arrange its institutions that success is to the socially fit, and this is only possible in proportion as the social order is based on principles of a just and equitable organization.

3. In this account of the matter I have assumed, in accordance with the preponderance of biological opinion, that environment as such has no direct effect upon the development of the stock. This is a point on which some schools of biologists speak with an assurance which almost amounts to dogmatism, and they employ this principle

as an argument to prove the futility of contemporary efforts at social improvement. In so doing it may be remarked in passing that very frequently they fail to draw the necessary distinction between racial and social progress. Thus in one of the Eugenics Laboratory Lectures<sup>1</sup> we read: "Practically all social legislation has been based on the assumption that better environment meant race progress."

I beg leave to doubt whether for the most part persons interested in social legislation have given any profound consideration to the question of race progress. What they have been concerned with is social progress, that is to say, they have aimed at improving the actual life of the people and the building up of a better social structure, and I may add that the biological terms of race and environment, nature and nurture, are not categories to satisfy sociologists. They do not exhaust the field. From one point of view, no doubt, social institutions may be regarded as an environment within which the individual is formed and to which he has to accommodate himself. But the actual effect of social institutions upon life is not to be understood in biological terms. The relation, as Professor Henry Jones has well pointed out, between the individual and society is far more intimate. It is much more like an organic union. One and the same set of qualities will take a totally different expression according as the social environment differs. The very same motives, the same original characteristics, which will in the one set of circumstances lead a man to unsocial practices, will, if suitably directed, render him an efficient and useful citizen. The same motives of pride and self-assertion which in a land where the blood feud reigns would lead a man to decorate his home with the skulls of his enemies and their wives and children, will in a civilized society urge him on to commercial or professional success, and will compel him to serve society for the gratification of his own ambition. The necessity of earning a living will impel a man to robbery and fraud or to honest and useful labor in accordance with the opportunities which the social system holds out to him. The driving power which under unrestrained competition will make a man a hard master may under suitable social control be directed to the equally efficient and humane conduct of business. It is not human quality, whether original or acquired, that differs profoundly from period to period. It is the turn given to human quality by the social structure. As with

<sup>1</sup>"The Relative Strength of Nurture and Nature," by Ethel M. Elderton.



the self-regarding, so with the more generous impulses. The unreasoned philanthropy of an earlier time might do harm by indiscriminate giving; when it finds rational channels for its activity it will prompt a man to throw in his weight with the best civic movements of the day. Nor, again, is the effect of social institutions to be measured by modifications in the qualities of individuals as that expression would be generally understood. Take, for example, the effect of education. It is certainly desirable that education should develop the intelligence, but how much net addition is made to intellectual capacity by educational processes is exceedingly difficult to measure. Acquired knowledge or skill, on the other hand, are tangible achievements in which the response of the individual on the one side and the teaching provided on the other are two inseparable conditions. It is acquirement or achievement, e.g. knowledge, skill, discipline, that training confers, and the modifications thus effected in a man's life and his functions as a member of society are so great as to amount in many cases to a change of kind rather than of degree. The distinction is ignored by certain writers of the eugenic school, who seek to depreciate the effect of nurture as compared with nature, even in its bearing on the individual.

A recent number of the *Review*<sup>1</sup> is wholly dedicated to the criticism of the Poor Law Reports from the eugenic point of view, and though this is upon the whole far more discriminating, and the crudities above quoted are by implication rejected as the ignorant prejudices of outsiders, yet the line of criticism taken illustrates, to say the least, a tendency which has to be very carefully watched. Both branches of the commission, we are told (p. 172), started with the assumption that the pauper was a normal person made necessitous by circumstances. Such round generalization will surprise any one who has carefully studied the two reports. The majority report, in particular, is the work of persons who are well known to have carried their emphasis on character almost to what seemed to some of their critics to be the breaking point; and, broadly speaking, having studied the two reports with care, I may say roundly that in both, though in different ways, the aim is precisely not to overlook individual character, but to achieve a just demarcation of the legitimate spheres of social and individual responsibility. Take, for example, the treatment of unemployment.

<sup>1</sup> *Eugenics Review*, November, 1910.

It is perfectly true that some of those who are in this condition suffer from defect of their own, whether congenital or acquired, but no one looking at the question as a whole, no one even acquainted with the elementary figures published month by month in the English *Labor Gazette*, can overlook the part played by social changes for which the individual is not responsible. Now, what is the recommendation of the commissioners? In both cases alike, though with differences of detail, the object is to save from hardship the man who is suffering from social changes which he cannot control, and thereby to make it possible for the first time to deal, with due disciplinary rigor, with him whose idleness is voluntary, and to apply curative and reformatory measures to those whose misfortunes are due to incapacity. The thesis of the minority report, in particular, is that the wastrel cannot be dealt with satisfactorily until he is parted, by a clear line of demarcation, from the man whose troubles are due to circumstance, and from the eugenic point of view what better beginning could be made? If we are to discover whether wastrels are men of degenerate stock, and if we are ultimately to take measures to prevent the degenerate stock from breeding, there is one preliminary condition that we must realize; we must first know that the stocks that we are dealing with are in reality hopeless, and for this purpose we must first have our social conditions so adjusted that all men who are in reality capable of adapting themselves to a well-ordered social organization shall have the opportunity of proving what is in them. The social environment must be established upon ethical lines before we can say that the successful are the fit, or that the unsuccessful deserve elimination.

In support of its opinion that pauperism is in the main a hereditary taint, the *Eugenics Review* proceeds in all solemnity to narrate the lamentable history of a number of pauper families, as though hereditary pauperism were a new phenomenon or one of which Poor Law administrators had not long since learned to take account. We know there are hereditary paupers, but to begin with we have to ask what is the nature of the heredity, and I find no attempt to make this discrimination in the pages of the *Review*.<sup>1</sup> A is a pauper, and his children, B, C, and D, are paupers, and D marries another pauper,

<sup>1</sup>See *ibid.* p. 187, where the fact that successive generations of the same family contain an undue proportion of paupers is made to point to the conclusion that pauperism is due to inherent defects which are hereditarily transmitted!

and of their children again three out of four are paupers. No doubt. But the Eugenist seems to forget that all classes are in the main hereditary. The average individual is he who neither rises much above nor sinks below the position in which he is born; and as an individual of average endowments born in the landlord or the professional or the artisan class will become a landlord, professional man, or an artisan; so the individual of average endowments born in pauperism may be expected to remain in the confines of pauperism. If we would know generally how much of the heritage of pauperism is due to the conditions under which the children make their start in life, and how much to hereditary taint, there is one method of determination. It is that of securing equal opportunity to the least and to the most fortunate, and to secure this equal opportunity is a problem of reorganizing institutions. Against any such reorganization, proceeding open-eyed with a clear view of individual differences, the eugenic criticism is wholly beside the mark.

The whole of the argument admits of being summed up in a few sentences. So far as the eugenic principle advocates the substitution of rational for natural selection, it is, in the abstract, upon firm ground. Where it can be clearly established that a stock is tainted with a hereditary blemish so great as to outweigh its merits, it is desirable that that stock should not be perpetuated. That is already recognized ethically as a duty and is acted on by many individuals, in cases where there is such a taint as that of insanity. There is every reason why our knowledge on these matters should be carried further and systematized, and it is possible that in certain cases it may be found desirable to crystallize ethical sentiment in positive law; for example, in the case of such a class as the feeble-minded, where permanent care is desirable for the benefit of the individual, it may be right that, as a condition of such care, restriction from marriage should be insisted on by society in the future interest of the race. On the other hand, the use of eugenic arguments against legislation designed to replace the struggle for existence by ordered social co-operation is at bottom a misapplication of the principle. It rests on the survival of the older ideas of natural selection under a new form, in new terminology. The method of social legislation should not be to accommodate institutions to the survival of the stronger; it should be to bring the social structure into accordance with sound principles

of social coöperation. In such a system those who are fit in the true sense of the term, those, that is to say, who are capable of becoming useful members of the social organization, can find their place; and it is only when all such persons are endowed with full opportunities to adapt themselves to social requirements that the failures of society can be legitimately regarded as the unfit. Those who so prove their unfitness are then legitimate objects for institutional tutelage, and it will then for the first time become possible to enter into the question of their right to propagate their like. That question would then be determined by the light that our knowledge of heredity could throw upon the future of their descendants. These views do not appear to me to be out of accord with the sounder teaching of the more cautious biologists. They conflict only with those enthusiasts who make rash applications based on confusion of the new teaching with the old. To illustrate this contrast I cannot do better than set side by side the sociological applications which Professor Bateson would make of Mendelian principles with the deductions drawn from his remarks by an enthusiastic reviewer in the pages of the *Eugenics Review*. Let us hear first the reviewer, Mr. G. P. Mudge, in the *Eugenics Review* for July, 1909, p. 137:

With regard to man, it is now clear that what social reform, legislation, and philanthropy have failed to accomplish, can be achieved by biology. Tell the student of genetics what type of nation we desire, within the limits of the characters which the nation already possesses, and confer upon him adequate powers, and he will evolve it. It is not too much to say that, if he were instructed to evolve a "fit" nation, i.e. one of self-reliant and self-supporting individuals, in the course of a few generations there would be neither workhouses, hospitals, unemployables, congenital criminals, or drunkards.

Students of eugenics will turn with interest to the concluding pages of Professor Bateson's book; there he deals with the sociological application of the science of genetics. We commend every advocate of social panaceas and of legislative interference with natural processes to read this part of the book. In a few well-chosen sentences he gives expression to the judgment of every biologist, alike of the present and the past, who has given to social problems adequate and unbiassed thought. For nothing is more evident to the naturalist than that we cannot convert inherent vice into innate virtue, nor change "leaden instincts into golden conduct," nor "transform a sow's ear into a silken purse" by any known social process. Our vast and costly schemes of free, compulsory, elementary education, of County Council scholarships and evening classes, which are among these social processes supposed to possess the magic virtue of transforming the world into a fairyland, may



be a delusion and a danger. And so, too, may be all the other well-intentioned but costly panaceas that harass and tax and eventually destroy the fit in order to attempt, for they can never achieve, the salvation of the unfit.

Let us turn from these sweeping condemnations, these triumphant prophecies, these large assertions of the powers of the biologist, to Professor Bateson's own words, the very words to which we are referred in justification of Mr. Mudge's statement. They are, unfortunately, too long to quote as a whole, but I will take the leading points.

To the naturalist it is evident that, while the elimination of the hopelessly unfit is a reasonable and prudent policy for society to adopt, any attempt to distinguish certain strains as superior and to give special encouragement to them would probably fail to accomplish the object proposed and most certainly be unsafe.

Contrast this with the proclamation, "Tell the student of genetics what type of nation we require . . . he will evolve it." Let us turn back again to Professor Bateson:

Some serious physical and mental defects, almost certainly also some morbid diatheses and some of the forms of vice and criminality, could be eradicated if society so determined. That, however, is the utmost length to which the authority of physiological science can, in the present state of knowledge, be claimed for interference. More extensive schemes are already being advocated by writers who are neither utopians nor visionaries. Their proposals are directed in the belief that society is more likely to accept a positive plan for the encouragement of the fit than negative interference for the restraint of the unfit. Genetic science, as I have said, gives no clear sanction to these proposals. It may also be doubted whether the guiding estimate of popular sentiment is well founded. Society has never shown itself averse to adopt measures of the most stringent and even brutal kind for the control of those whom it regards as its enemies.

Genetic knowledge must certainly lead to new conceptions of justice, and it is by no means impossible that, in the light of such knowledge, public opinion will welcome measures likely to do more for the extinction of the criminal and degenerate than has been accomplished by ages of penal enactment.

With so cautious and reasoned a statement social philosophy can in principle have no ground of quarrel. It can only desire that the data may be as fully as possible ascertained and, in proportion as civic effort succeeds in reorganizing the social structure on the basis of justice and equity, it will be prepared to deal with the strains, if they exist, with which a life in accordance with equity is incompatible.

44. SOCIAL IDEALS: EUGENICS, EUTECHNICS, EUTOPIAS<sup>1</sup>

When we consider the social sphere, the part of the Kingdom which is most distinctively Man's own, we have cause to be at once proud and ashamed. There is magnificence cheek by jowl with misery, and the sublime is jostled by the sordid. What literature, what art, what science! And yet, what trash, what ugliness, what ignorance! At times it seems as if Man as organism lagged behind the externally enregistered gains of evolution, as if the citizen were not worthy of the city. At other times it seems as if Man handicapped himself with external impediments, as if the machinery he fashioned became too strong for him, as if the slum got the better of the citizen. Yet those are wisest who keep brave hearts. "What is Man?" said the chaplain, quoting the Psalmist to Richard Yea-and-Nay. "What is Man not?" thundered back the King. And that is the right spirit.

The three great objective ideals of mankind are: Eugenics, the improvement of the human breed; Eutechnics, the improvement of occupations and activities; and Eutopias, the improvement of surroundings. These correspond to the three facts—Folk, Work, Place; Organism, Function, Environment; Le Play's Famille, Travail, Lieu.

Eugenics was defined by Sir Francis Galton as "the study of agencies under social control that may improve or impair the racial qualities of future generations, either physically or mentally." It is often spoken with an indulgent smile, as if it was an amiable weakness to be interested in an ideal which yielded the Hebrew prophets and is an ancient art in China. There is no difficulty in vindicating the ideal; the difficulty is in regard to practicable Eugenics. We cannot here do more than make a few suggestions:

1. While men and women cannot select their parents, they do to some extent select their partners in life, and in this subtle process it is possible that an enthusiasm for health in the widest and highest sense may have an influence in a eugenic direction.

2. If men and women who are handicapped by serious constitutional unsoundness permit themselves to marry, they should not permit themselves to be parents. No one can contemplate without grave regret the spoiling of more or less good stock by the introduction of defects like deaf-mutism, or predispositions to well-defined mental instability,

<sup>1</sup>From *The Control of Life* (pp. 257-264), by J. Arthur Thomson.

or to certain forms of diabetes and epilepsy. But it is a little suspicious that it is always the other fellow, not oneself, that one thinks of as not a good parent! Professor G. H. Parker expresses the wholesome dread that people have of inquisitions—scientific or otherwise.

My neighbours are charitably inclined, but some of them, I am sure, would give what seemed to them good reasons for not having my particular personality repeated in the future, and yet, with all due respect to the welfare of society, I confess to a slight measure of feeling that I be allowed some individual freedom in this matter.

If there is to be a marriage inquisition, one would like to stipulate for a peripatetic, non-local tribunal, on which the family physician might be an assessor, and for a court of appeal at least.

3. For natural selection from which man struggles away there is need to substitute rational and social selection. But it does not follow that all the modes of this deliberate selection are for the good of society or the race, or are wholly in that direction. It is often suggested that obviously undesirable types who have fallen back upon the community for support should be prevented from reproducing their kind. But limits to repression and segregation will be found in the prevailing social sentiments of freedom and solidarity, and it has to be borne in mind that in some measure society may be itself responsible for the making of the failures alluded to, so that we are bound to do something to prevent their production as well as their reproduction!

4. It is often suggested that there should be some deliberate return to "the purgation of the State" which Sparta to some extent practised and Plato approved. It has been recommended that weakly infants, whose life must be more or less miserable, should be allowed to pass away in their sleep. This may be justifiable in certain very clear cases, but it is open to serious objections: (1) that many weaklings have been the makers and shakers of the world, (2) that the Spartan proposals outrun our present secure knowledge, (3) that their operation would remove the results of evil without touching the causes, and (4) that we cannot go far in social surgery without outraging social sentiment in its finest expressions and shaking the foundations of our modern system.

5. Given an understanding of natural inheritance and the influence of nurture, given a pride of race and a pride in having a vigorous family, given an enthusiasm for health, many more positive methods of "improv-

ing the breed" will occur. A community which realises the racial value of fine types, of men, let us say, with high artistic gifts and vigorous physique, will in its criticised expenditure tend to secure their continuance. The applications of this economic idea of "the criticism of consumption" are endless and far-reaching. All expenditure which promotes unhealthy rather than healthy occupations, which helps to multiply undesirable types, which makes for sweated labour and slums rather than for well-paid work and gardens, is necessarily dysgenic and not eugenic.

6. There is hopefulness also in a practical criticism of those processes which at present thin the ranks of mankind to little or no purpose. Thus, it is certain that many microbic diseases are not discriminatively selective, but effect only a wasteful thinning of the population.

7. Much betterment may be looked for from a patient persistence in education—if only that could be readjusted to modern conditions and informed with sound psychology. Apart from mere discipline, it may be said that there are three main "subjects" in education: (1) the history of our race, (2) the world in which we live, and (3) the conditions of health, happiness, and effective work. Even an optimist must find it hard to maintain that our present-day methods of education are gripping in any one of these three fundamental subjects. When improved methods begin to grip, eugenics will become a dominant social ideal.

As to Eutechnics, there is a growing sense of the fact that even from the point of view of maximum production it does not pay to treat workers as if they were mere machines, and much of the disgrace of the occupational conditions of the Victorian period has been wiped out. As to Eutopias, much has been done in the way of removing utterly inhuman surroundings, but there is little reduction in the supply of materials for a disgraceful scrap-heap; and compared with, say, Japan of yesterday, English-speaking peoples do little towards securing what is positively beautiful.

A good sign is the spread of the conviction that there is no one line of betterment,—that all secure biological progress must be along three lines, and must be supplemented by progress in social organisation and in the kingdom of the Spirit. Vigour is a eugenic ideal, but a vigorous serf is not a human ideal, nor is vigour in a slum. A beautiful countryside or a beautiful city is a eutopian ideal, but it is not a human ideal if the people are dull and joyless, or if their work is unrelieved toil. Wholesome occupation is a eutechnic ideal, but it



fails of human completeness unless the workers have vigorous health and pleasant houses to dwell in. We cannot be equally interested in all three kinds of amelioration, but we have ceased to disparage our neighbour's enthusiasm because it is not ours.

*Science as torch.* We must pause at this point to re-emphasise the idea that the hopefulness of the modern vision of the old ideals to which we have been referring lies in a slowly growing appreciation of the value of Science as torch. If Man is to win his kingdom, it must be in part by putting more brains into the campaign. By brains we here mean primarily scientific control—that is to say, control based on knowledge—verifiable and communicable knowledge—gained from actual experience of the things, the forces, the lives, or the societies to be controlled. Science is truly a 'crystallised systematisation of observed sequences—("If this, then that") like Newton's *Principia*; but it is more. It is a living thing, like Philosophy; it is a life.

The common phrase "a knowledge of science" betrays a misunderstanding. There are, of course, fundamental facts and laws to be mastered, and they become part and parcel of the expert,—the permanent furniture of his mind; but beyond a certain limit of convenience no wise man dreams of increasing this furniture except at a particular time for a particular purpose. The root of the matter is a habit of mind which insists on getting at the facts in regard to any particular problem, which knows the methods of getting at the facts, which has a high standard of accuracy, which is disciplined to criticise inferences from facts and is alert to detect clues. This type of mind is in its finest expression rare, but in its serviceable expression not uncommon, and on its utilisation survival largely depends.

No one need suppose that we are even for a moment forgetting that social progress depends in part on feelings of kinship, on generous good-will, and on the sentiment of solidarity, so characteristic of the Christian religion. We are not for a moment forgetting the impetus that may be given to any good cause by social organisations sufficiently resolute ethically (as in regard to slavery), or sufficiently enthusiastic (as in regard to pacificism and women's suffrage), or sufficiently determined on lines of self-interest (as in the case of trade-unions). But there are many problems which only Science can solve. We need more knowledge and more use of the knowledge we have. Knowledge is foresight, and foresight is power.

## PART III. THE PROBLEM OF DEFECTIVENESS

### CHAPTER XIII

#### MENTAL TESTS AND THE VARIATIONS IN MENTAL EQUIPMENT

##### 45. THE NATURE OF MENTAL EXAMINATIONS<sup>1</sup>

Although in general the public has become familiar with the fact that mental examinations are made in many cases where there is no reason to suppose that insanity exists, there is a great deal of doubt in the minds of many as to the nature of the methods and the information they may be expected to yield. It may not, therefore, be amiss to give briefly the outlines of this work.

Mental examinations, as they are now made, may be divided into two main groups: The first, or psychometric method, sometimes called the psychological tests, consists in the application of certain standardized sets of tests with the object of determining the native mental ability, or, as it is called, the "intelligence" of the subject. Various forms of tests are now used, but practically all of them are based upon the work of the French scientist, Alfred Binet, who, together with his collaborator, Theodore Simon, published in the years 1905 to 1908 the first scale for the measurement of intelligence in children.

This scale is arranged in accordance with the idea that as a child grows older and his mentality develops he is able to perform more and more complicated acts and to carry out more and more complex intellectual processes; so that, if we arrange a series of tests, questions, and problems in the order of their difficulty and present them to a

<sup>1</sup>From *Criminal Justice in Cleveland* (pp. 448-452), by Herman M. Adler, M.A., M.D., Illinois State Criminologist. Copyright, 1922, by the Cleveland Foundation.

child, we may be able to infer his degree of development by the point in such a series beyond which he is unable to answer questions satisfactorily. The scale thus arranged by Binet has since been tried out on a large number of school children, and as a result of this experiment it has been possible to arrange the tests in groups of six for each year. Since publication, these tests have been used to such an extent as to indicate thoroughly the existing need of such measurement.

It soon developed that there were in the schools and elsewhere individuals who, on being subjected to these tests, failed more or less widely to come up to the grade corresponding to their actual age, and since the tests had originally been arranged for age groups, it was said that their chronological age or actual age was, let us say, twelve years, and the mental age as determined by the scale was, let us say, nine years.

As the tests have become more definitely standardized, and as new tests have been devised and come into use, the exact definiteness with which the mental ages were stated ten years ago has gradually become subject to modification. Thus, while in the case of school children of twelve or less it is reasonably satisfactory to express their deviation or subnormality in terms of years, it is not so clear when the method is applied to older persons. When applied to adolescents, and especially to adults, these methods have frequently given rise to incredulity on the part of many; an instance of such a case is when an individual of twenty-five years who is guilty of a felony, and perhaps has a wife and children, and in other respects appears to be mature, is said to have the mind of a child of nine years as determined by the mental tests.

The reason for this apparent discrepancy is the fact that the original Binet scale and its modifications and amplifications hold with considerable accuracy for children of twelve and less, because the innate intelligence reaches its full development at about the age of puberty. This statement is not true in an absolute sense, but for present purposes is sufficiently accurate. The development which goes on after the age of puberty, during the age of adolescence, and until full adolescent maturity is reached, is a growth in strength, power, and the use of the innate ability through acquired habits and experience.

As this is the period during which the greatest apparent progress is made, when the change from childhood to adult maturity is visibly going on, it is difficult at first glance to reconcile this fact with the

previous statement in regard to the maturing of intelligence. A child of twelve or fourteen may have as much intelligence as an individual of twenty-five or thirty years, and yet the adult will far exceed the child in intellectual performance and ability. This is because the older person is able to use his intelligence much more effectively because his emotional control, equilibrium, and judgment are much greater than those of a child. Less difficulty would undoubtedly be experienced in this regard had we a measure of the development which takes place during the adolescent period corresponding to the one we now have for the mental development during childhood.

The psychometric tests, therefore, give us a fairly accurate statement of the degree of intelligence of any individual. All inferences regarding the maturity of the individual in other respects, namely, emotional control, forbearance, responsibility, honesty, self-denial, respect for others, and the other attributes of personality which determine an individual's place in the social scale, can be determined only roughly. We can compare one individual with another in regard to his intelligence rating and can say with considerable precision by how much one excels another. For the period of adolescent development, no such exact measurement is possible, and we have to be content with a "more or less," "better or worse," standardization.

So striking have been the results achieved by means of the Binet-Simon tests that in the ten years since the first publication this type of measurement has become firmly established in schools, courts, and institutions, in fact, wherever child welfare is concerned.

Other scales have been devised which furnish the information in a somewhat different way, perhaps with greater precision than the original Binet scale. Aside from the first important modification of the scale, the so-called Stanford Revision, by Professor Terman, of Leland Stanford University, there have been developed a point scale by Professor Yerkes, and a number of special tests, such as those of Dr. William Healy, Dr. Guy Fernald, Professor Whipple, and many others.

The problem of giving an intelligence rating to the soldiers of the draft army during the late war gave an impetus to another form of test which has been claiming attention in the schools, namely, that of the so-called "group tests." This method, based in general upon the same logic as the Binet tests, was so arranged that any one who can



read and write may perform the test. The method consists in an instructor reading certain instructions to the group, who are equipped with pencils and test blanks, and who then carry out the instructions, answering questions and solving problems in accordance with printed statements, while the instructor keeps time. In this way as many as a thousand men can be examined simultaneously.

The scores made on these tests, which are now usually referred to as the army tests, are expressed in figures: the highest possible score, for instance, was 212. The performance varied throughout the entire range from 0 to 212. In order to express the result in a usable form the score is divided into five groups, designated by the letters A to E as follows: A, very superior; B, superior; C, average; D, inferior; E, very inferior. It was found that so many men fell into the C or average group that it became necessary to divide this into two more groups, C plus and C minus, high average and low average respectively. The score necessary for a commission was judged, as a rule, to be either A or B. The men of E intelligence included the feeble-minded, the defective, and, in the main, men not fitted for the army because of low mentality.

In evaluating the mental status of an individual who, for one reason or another, is a subject for examination, more than intelligence rating is required. This further information is obtained by means of certain mental examinations which have as their object the determination not so much of the qualitative mental ability as of the existence of diseased or abnormal functionings or reactions. We might visualize this by saying that in the intelligence field we are taking a measure, just as we might measure the height of an individual, and that the differences are differences in mental stature. In the second form of examination, namely, the psychiatric examination, we are looking not for differences in height, but for pathological processes comparable to disease processes in the field of physical health. This type of examination seeks to determine the existence or absence of certain symptoms of disease, and when found, to evaluate their significance and the severity of the condition. It yields information upon which may be based such diagnosis as mental disease or the less severe pathological conditions, sometimes called psychopathic personality.

The study of the mentality of an individual from the point of view of psychiatry requires something further, however, than merely testing

the mind or the nervous system. One cannot dissect the living human being and deal with one portion only. One of the characteristics of a living organism is that every part is in relation with every other. Nowhere is this more important than in the pathology of the mind. Of late a great deal of attention has been paid to the influence on mentality of certain factors which lie outside the nervous system. The existence of physical disease elsewhere in the body, as, for instance, in the delirium of fever, various intoxications and auto-intoxications, the effect of digestive disturbances, and, above all, the more newly disclosed effects of various glands and organs, such as the thyroid and the sex glands, are examples of these factors. It will be clear, therefore, that the examination of mentality from this point of view cannot be conducted with the same apparent exactness as is often possible in the investigation of the mental age. It must also be clear that this type of investigation requires the application of all the medical knowledge available and must, therefore, be made by a medical man with special experience in this field.

There is another point which must be understood in order to appreciate why medical, especially psychiatric, knowledge must be applied in addition to the intelligence rating. As we have seen before, the intelligence test is a matter of measuring mental stature. While these methods must be applied with the greatest care in order to be of any value and, therefore, require the services of a highly trained specialist, they nevertheless do not require any medical or pathological knowledge. In the elucidation of behavior difficulties we are confronted with a problem which is comparable less to an educational problem than to a problem of health. Even though our object is not to pin a label on the individual and find him either insane or feeble-minded, nevertheless we must arrive at a diagnosis of health by exclusion, for in no other way can a diagnosis be made. We cannot make a diagnosis of health or of sanity. We can only make a diagnosis of "no evidence of disease found." We can positively identify only the signs and symptoms of disease. In the absence of such we are justified in assuming that a person is healthy. It must be clear, therefore, that in making this sort of judgment upon the mentality of individuals and in elucidating the mental factors in behavior reactions a true knowledge of mental pathology is necessary in order to allow this judgment by exclusion.

The fact that psychiatrists are interesting themselves more and more in the behavior problems of the non-insane should not be interpreted as an indication that the psychiatrist is endeavoring to adjudge everybody insane. But, on the other hand, the commonly held fallacy that the psychiatrist has no interest in the problems of the non-insane or mentally healthy individual should be also dispelled.

#### 46. INDIVIDUAL VARIATIONS IN MENTAL EQUIPMENT<sup>1</sup>

In order to deal intelligently and rationally with human beings obviously there must be acquaintance with certain practical aspects of that most important science of human life, psychology. Social work as it has developed in the past has been focused specifically on all sorts of conditions and facts which make up the setting of its human problems, while more or less neglecting essentials of the qualities and possibilities of the human beings themselves. Psychology, on the other hand, until very recently has been least interested in the settings, the external conditions, even as they most vitally affect mental life; it has dealt exclusively with the generic nature of mental life in human beings, apart from action in life, apart from the interplay between diverse human nature and a particular environment. This condition, however, has somewhat changed, and already in the last decade or two there has been accumulated a body of scientific psychological fact which is available for those who would be effective students of social processes. It is clear, in particular, that the social worker should know much of the psychology of individual differences and of the factors which are active in making varieties of human beings and varieties of behavior.

Nowadays psychological and psychiatric study of the individual is fairly well accepted in principle, even where no opportunities for such study exist. There is, however, a tendency, far too widespread, to accept the view that adequate study can be made by a brief, more or less formal examination and that the giving of some test or scale of tests is all that is needed to answer all one's queries or guide all future efforts. The attitude of the lay worker, and sometimes, unfortunately, of the professional one as well, is indicated in a questionnaire sent

<sup>1</sup>From the *Proceedings of the National Conference of Social Work*, 1920, by Augusta F. Bronner, Ph. D., Director, Judge Baker Foundation, Boston.

out the other day by a national organization which sums up the facts desired on mentality as follows: "If the person has been examined, state if pronounced feeble-minded or insane. If not examined, give your impressions of the mentality." This point of view, is, of course, ridiculous. A moment's common sense reflection will lead to the realization that mental life is so complex and that the practical issues are so numerous that any brief examination or any short summary statement of the mental equipment must necessarily be incomplete and must overlook points of great significance for practical adjustment.

A lesson that we have been forced to learn well, as we have attempted to meet the practical social issues of the cases presented to us for opinion, is that adequate study of the mental makeup or equipment must cover at least five aspects. These we shall take up and briefly outline, not in the order of their importance, for that is hard to determine and varies with the individual. But since it is most commonly discussed and uncritically asked for and interpreted by the social worker at present, we may well begin with the age-level rating of mentality.

### *I. Age-Level Tests*

A testing by an age-level scale, such as the Stanford revision of the Binet, perhaps the scale most widely used at the present time, has certain advantages: (1) it is a method in very common use and hence admits of ready comparative studies; (2) it estimates so-called "intelligence" or "general ability," not emphasizing any one ability; (3) it enables one to classify in terms of mental age or intelligence quotient (the "I.Q."). Thus Terman, and indeed Binet and each of the revisers of the scale, has stated that according to the score obtained on the scale the individual shall be diagnosed as supernormal, normal, dull-normal, borderline, or feeble-minded.

Although we do not agree that such a classification should be based on an age-level scale alone, and despite its limitations and inadequacies, yet it is undoubtedly true that such testing gives a rough placing, a first blocking out of some of the problems that need to be corroborated or studied further.

The Binet scale and its revisions do not suffice alone, for a number of reasons: (1) The results are not always reliable, for they are influenced by special abilities and disabilities, thus a good or poor audi-



tory memory span raises or lowers the score unduly. (2) Educational and cultural opportunities play a large part in success or failure on some of the tests. The scale involves language very largely and the final score is markedly affected by the chances one has had to acquire a certain vocabulary and to gain facility in understanding and use of language. (3) Special abilities and disabilities that may be matters of great practical import are left totally or largely unrevealed. The scale involves almost entirely ability to deal with ideas and gives no hint, for example, of ability to deal with things, as we have long insisted, and with persons, as Wells has pointed out. (4) The final score may be readily misinterpreted, especially by those untrained in clinical psychology; the mental age or I.Q., given out as the only necessary statement, implying that from it all facts about mental equipment can be inferred, gives rise to numerous misconceptions.

Practically, just what does the mental age or I.Q. mean? Suppose, for example, the result shows that a young woman of twenty has a mental age of twelve years, or an I.Q. of 75. How shall one interpret this? Surely no one believes that for purposes of social treatment this is any answer to the practical questions that arise. Does anyone believe that this young woman of twenty, with eight years of world experience since she was chronologically twelve years old, can be considered as in all ways comparable to, much less exactly like, a child of twelve? And yet, as if this were true, there is nowadays a great clamor by the uncritical for this type of bare numerical statement, as if all could be told in a word or a couple of digits, not even taking into account that among children of twelve years there are vast differences in makeup and potentialities. Does the statement "I.Q. 75" mean anything very helpful without many more supplementary data? We have, as a matter of fact, only a very slight notion of the practical correlations, such as social adjustments, that any ordinary I.Q. indicates.

*Illustrative cases.* The foregoing points might be illustrated by numerous examples, each varying in details; we may group these under three headings:

1. *Where the I. Q. is unreliable because too high.* Here, for example, is a lad about eleven years old; the intelligence quotient on Stanford scale is 117, which grades him as considerably supernormal. A very wide range of other tests gives results greatly at variance with this; on several he scores at age, a large number of others grade him from slightly below age to three

years retarded. On not a single test other than the Stanford is the score above age. In the light of this shall one still call him supernormal? How shall we interpret his high I.Q.? Analysis of the separate results of the scale shows that the score is influenced by remarkable auditory powers which enable him to receive credit for successes at twelve, fourteen, and eighteen years. A highly specialized ability thus distorts the picture which the final score gives. If we used age-level tests alone and made inferences from only those, our social treatment in this case would in all likelihood be a failure.

2. *Where the I.Q. is unreliable because too low.* An instance of this kind is the case of a boy of fourteen and a half whose I.Q. 80, would classify him as being subnormal, or dull-normal. But on many tests, arithmetic, motor control, visualizing powers, apperceptions, and particularly in working with concrete material he made good records. On some of these his performance was far above the normal for his age or school grade. His particular disability was concerned with language; although born in this country and going to public school, he had much difficulty with both the use and comprehension of language. In the light of all the tests that he did so well, many of them being of much social importance, we were convinced that his proper classification should be normal, of at least fair ability.

3. *Where the I.Q. does not reveal the significant features of mental ability.* Irregularities in performance are sometimes the outstanding fact of a mental examination; this may itself be due to any one of several different causes, such as physical conditions—epilepsy notably—or to prolonged indulgence in debilitating habits, or to some sensory defect. This irregularity may or may not be indicated on the age scale; in case it is, the extent cannot be determined without supplementary tests. Thus a boy of fourteen just entering high school was seen as a vocational and educational problem, the question on the part of a relief agency being whether his abilities warranted further assistance to the family so that the boy could continue in school, or whether it would be wiser to start him at work. If the latter seemed advisable, for what occupation was he best adapted? His I.Q. was 93, grading him as average normal. Other tests showed much more that was important; they varied in score from nine-year norms to those for superior adults. None of the above-mentioned causes were operative, and tests for various types of performance were consistent with each other. Language ability was found very poor, so was ability to deal with concrete material, but auditory powers were very good and facility with numbers was clearly evinced. The boy seemed incapable of profiting by further high-school instruction but well fitted for special training as a bookkeeper. This conclusion would scarcely have been justified, or even possible to reach, on the basis of age-level tests alone. This case suggests our second consideration in the study of individuals.

## II. *Study of Special Abilities and Disabilities*

Besides estimating general ability it is advisable to know as much as we can about the special abilities or disabilities of those for whom a constructive program is under consideration. From the practical standpoint this is important, for it cannot be too frequently emphasized that the greatest values are likely to accrue from grading the individual up rather than from grading him down. Since study of mental equipment is most valuable as a basis for constructive efforts, we wish to know all we can of the potentialities that bespeak the greatest likelihood of successful development and use, which augur best as a means of contributing to the individual's happiness and usefulness and to society's welfare. Hence we are interested in revealing the abilities that can be utilized educationally, vocationally, and socially.

One of the more recent directions in which educational and applied psychology has been moving has been toward devising and standardizing trade and vocational tests, by means of which qualifications for specialized tasks shall be measured. This is entirely in keeping with our own point of view and seems justified both from common sense and from scientific considerations.

The cases already cited give some indication of the facts we have in mind. The range of special abilities found is quite large and we cannot illustrate all types here. The most commonly thought of is mechanical ability. We have heard or read quite a bit in educational discussions of the child who is "hand-minded" rather than "book-minded," of those adapted for vocational and prevocational classes rather than for academic courses. This ability to deal with things rather than with ideas, with concrete material rather than with abstract, is not tapped at all in the age-scales.

For vocational purposes such ability should be thought of as divided into three kinds: (1) simple manual dexterity, that is, ability to use the hands skilfully and quickly; (2) mechanical skill, where besides dexterity there is ability to deal with problems presented in concrete material; (3) planfulness, resource, and originality with concrete material. The first of these is exemplified in unskilled factory work, such as packing or pasting, where speed is the primary need. The second may be illustrated by repair work, where parts of a machine, let us say, must be put together. The last is typified by

the inventor or mechanical engineer, where originality is the great desideratum. We often see instances of special ability of the first or second kind and occasionally of the third.

*Illustrative cases.* A young woman of seventeen recently studied did poorly on most tests; she was classified as subnormal. She had, however, remarkable speed and dexterity in the use of her hands, grading far above the average in this, but she could scarcely solve construction tests requiring judgment of the relationship of pieces to each other. Clearly she was fitted only for routine factory work where speed was the greatest requirement.

A lad almost fourteen years old grading as average in general ability made just about an average performance on tests for a number of abilities. On tests for manual dexterity he did well, but on those for mechanical ability where planfulness and insight were required he made remarkable records—indeed on a half-dozen such tests he rapidly made perfect scores. This demonstrated ability was later corroborated by very successful work in the shoe shop of a correctional institution. Unfortunately his marked special ability was not taken into account in the still later adjustments made. The boy was paroled on a farm, where he had no outlet for his skill along mechanical lines and where in consequence this was not only wasted but the lad became dissatisfied and unhappy as well.

Other special abilities are equally helpful signs which, if properly read, guide vocational advice and action. Sometimes finding especially good ability in the field of language together with certain personal qualifications has led us to recommend training in salesmanship. Special ability in clerical work can be fairly reliably determined by the tests now available. Again, good visualizing powers may offer the basis of educational and vocational advice.

Recently we studied for vocational guidance a young woman, seventeen years old, who was taking a commercial course in high school with very slight success. She had already failed in the academic course and had transferred to the business course as the only alternative. Psychological testing showed the unsuitability of this; in the clerical examination she ranked among the lowest 2 per cent. But the study demonstrated unusual ability in powers of visualization. On the basis of this we recommended training in draftsmanship; this advice was followed and our last report stated that she is happier and more successful than she has been at any time since she entered the high school.

The corollary of this—the finding of special disability—should of course be equally as practical a determinant in educational and voca-



tional efforts. Obviously it is unwise, uneconomical, and productive of poor results to train or place people at work for which they are innately unfitted. The round peg and the square hole are frequently enough spoken of, but the relationship is not always recognized when it appears. Nor is the situation avoided as frequently as it might and probably would be if special inaptitudes were known. Only too commonly employment that is available is the criterion for adjustment and, no consideration being given to its suitability, much less scientific knowledge of fitness, the outcome is likely to be a speedy need for a new job for the applicant. We have known of bright boys and girls being placed at routine work not at all worthy of their capacities, and work unsuited to abilities is often assigned when the chance for success is slight. We know a young fellow of sixteen, who, committed to a correctional institution, spent two years in the carpentry shop, though our mental examination disclosed a considerable disability along that line. Another boy was permitted to enter the commercial course in a high school when his ability for arithmetic was notably poor, whereas his fine capacity for arts and crafts was totally unrecognized.

Thus the discovery of special ability or disability of social significance enables one to direct education and vocation and because of aiding in a definite program the prognosis in problem cases becomes much more favorable and the recommendations for treatment much more specific.

### III. *Functioning of the Mind ; the Dynamic Aspect*

When "mental abilities" have been ascertained, there still remains the question, How well, with these abilities, does the mind function? What is the individual's mental working ability? How great is the capacity for output? Perhaps we can best present this problem of dynamics by giving two contrasting illustrations.

A lad, fourteen years old, was recently studied by us at great length. He was a boy who had had many opportunities, he had traveled, lived in a home of culture, attended a private school that bears a fine reputation. Although encouraged in every usual way he remained at the very foot of his class, not successful in any of his studies; he had had tutoring and yet, although well-behaved and amenable, he made poor progress. The results on the age-scale gave no aid in understanding the difficulty; he graded as

supernormal, I.Q. 113. On many other tests he did very well, especially where directions were to be followed. He also passed the vocabulary test for superior adult intelligence. Yet on a word-building test where six assigned letters are to be combined into words, he reached only a nine-year norm. He was steady, but slow in reactions. While willing enough, he was not at all alert or keen mentally; on a number of tests he showed little initiative, resource, or imagination. He showed no special disability; no physical defect offered the explanation. He was not only lacking in energy in mental tasks, but was reported as not responding to any competitive stimulus, uninterested in athletics or in anything that required exertion. Both his family and teachers regarded him as intelligent, in spite of his failures, social and in the classroom. With us his high I. Q. and the exceedingly good results on some other tests indicated that there was no lack of ability; we were led to conclude that this was distinctly a problem of mental dynamics.

It is a far cry from this last case to the notable instance of a feeble-minded girl, twelve years old, who was in the sixth grade. Our impressions, dictated at the end of the examination read, "Very lively, responsive girl. Tremendously energetic. Works with test in most remarkable fashion so that she gets every bit of which she is capable out of herself. Her dynamic qualities are very striking. Her great energy and application to a task have no doubt aided her much in her school progress." A year later we learned that she was in the seventh grade.

The facts relating to mental energy, to powers of continuity of purpose and effort all belong to this present category. Here, too, we must place the problems of those constitutionally inferior persons who, though not rating as defective mentally, yet are lacking in forcefulness and effectiveness whenever a situation becomes at all difficult. Here also belong questions of balance, of mental balance and control which so largely affect the actual accomplishment, no matter what the innate capacity may be. There are problems of individuals overdynamic, impulsive, hyperactive, perhaps even defective in control; or of intelligent people who do not adjust well because over-sensitive and thus unduly inhibited.

The first of these is illustrated in the case of a young girl, fourteen and a half years old, who, placed out by an agency, was found a great problem in each of several homes. Immediately upon seeing her one was impressed by her general attitude. She was strong, sturdy, alert, vivacious, rather a tomboy in manner, overactive physically. From her reactions while with us, from the social history, from her own statement of her interests and

desires it was clear she was of a strong, distinctive personality. She was impulsive and uncontrolled to the extent of being practically defective in inhibitions, was changeable in ideas and purposes, uncritical, generous, un-repressed, and childish. She described herself as bold and defiant; she was reported stubborn and self-willed. She was fond of outdoor sports and the most active recreations. Mentally she was normal and it was evident that the problem was not that of capacity but rather one of balance and control.

The problem of the over-inhibited is well known. Typically the case is that of a bright, conscientious girl with an excellent school record, who is unsuccessful socially or vocationally because of her timidity, sensitiveness, and lack of self-confidence.

#### IV. *Personality Makeup*

In the study of mental equipment there must be a place for the sizing up of the personality. Although at the present time there are available no standardized tests analogous to mental tests, psychiatrists have emphasized the need for such study and some schedules have been outlined for characterization of individuals. We have long appreciated the importance of personality studies and our tendency is more and more to inquire and observe and to formulate specific descriptive terms. That it is possible to do more than this at present we doubt, even though we regard with interest certain attempts to estimate by a numerical value these character traits. Subjective standards and interpretations offer the only means of evaluating these objective and highly important life-reactions.

Practically, it is often difficult to determine what is innate personality makeup and what is the result of environment and experience. The interplay of the two is great and the innate makeup can scarcely be extricated from the product of circumstances. Perhaps from one point of view such separation is not needed or desirable, and yet for the offering of prognoses it is sometimes essential to know just what the individual is innately, and what he might be like under different circumstances.

Thus, we saw a girl, only nine years old, who was a most difficult placing problem. Everywhere she lived there were complaints of violent behavior, temper spells, quarreling, and rough treatment of children. She was a most unpleasant personality, regarded as disagreeable by foster mothers, teachers, and playmates. The major point at issue when we studied her was deter-

mination of the extent to which her personality might be modified by some therapeutic endeavor, which in turn seemed to depend on the question as to whether her traits were innate or the result of experiences. In the course of the study previously unknown causative experiences were unearthed and with these brought to light and special social and educational processes undertaken there has been a marked change in what before were called personality traits.

It is true, conversely, that the same experience reacts differently on different individuals. Thus two brothers, a year apart in age, both bright, were subjected to the same experience. The one was markedly disturbed thereby, the other apparently totally unaffected. This variance in effect is possibly due to differences in personality makeup while in turn the experience itself may change the personality, at least for the time being, as in the case of the one brother who became very peculiar and irritable, so that he was regarded by all as a specific personality problem. Very frequently cases are met where the personality is reported as distinctly changed, and study reveals that this has followed upon some peculiar specific experience.

The personality makeup may be the feature of a case upon which all the adjustments are conditioned. Practical procedure sometimes is more largely determined by this than by any aspect of mental ability. Thus, for example, the social treatment of even the mentally defective must be considered in terms of the personality characteristics shown. One feeble-minded lad is socially suggestible to a marked degree, though perhaps industrious and mild; under good supervision, where suggestible to good influences, he may succeed in a simple environment. Another with an identical I.Q. is aggressive, a leader, possibly even vicious. He needs perhaps segregation. The social adjustments here are not determined by mental capacity, but very largely by character and personality traits.

### *V. Mental Content*

Lastly we come to the group of problems which we may designate as those of mental content, an aspect of mental life often overlooked by the psychologist, just as the study of general ability and of special abilities and disabilities is usually neglected by the psychiatrist. To understand the fundamentals of conduct one must inquire into and be acquainted with the stuff of which the individual's mental life is woven. What forms the content of his mental life, what are his in-



terests, his ideals, and ambitions? In what fancies or phantasies does he indulge, what ideation is more or less recurrent? Does he have day dreams, and of what do they consist? Is he subject to obsessive thoughts or imagery?

In general we usually consider the mental content as good or bad, but, as a matter of fact, the problem is sometimes concerned, not with good or bad content or ideation, but with mental emptiness—vacuity. The surprising fact, according to our experience is that, notwithstanding compulsory school attendance and the abundance of social settlements, community centers, and other similar organizations, there yet may be found many persons of decidedly good ability who have almost no mental interests and the paucity of whose mental life is amazing. It is astonishing to find, for instance, the number of young people who know nothing of everyday affairs in the midst of which they live, who are unaware of the resources of their city, who have no interest in clubs, books, politics, art, music, or indeed in any ordinary wholesome activities or recreations. Of course, this may sometimes betoken lack of ambition, but frequently it is not a matter of dynamics—the individual has plenty of energy for other things.

For instance, a young girl, sixteen and a half years old, was found to be quite bright; her I.Q. was 107, which indicates that she was somewhat above adult intelligence according to the Terman scale. She was very quick in her reactions and on a wide range of tests she did well without exception. She had graduated from grammar school at fourteen, third highest in her class. After a prolonged study—for she was seriously delinquent—we stated, "The most interesting features of her makeup are lack of curiosity and her narrow range of interests. She seems never to have thought deeply about anything. She says of herself that when eight years old she read a book or two by Alger and has never read a book since, does not read newspapers or magazines, never read a novel. She had gone to no lectures; she knew nothing of social or civic affairs; having been asked to join the Red Cross she had made a small money contribution but took no active part. She went very occasionally to dances and rarely to the theatre. She had no curiosity even about sexual matters, never wondered nor asked about such things. When she became acquainted at the waiting room of a department store with a young woman who later introduced her to a group of other women, she had no curiosity about them or their lives, even when after a short time they led her into shoplifting. She said of herself that in school she learned easily, that usually after reading a history lesson, for example, she could recite it verbatim."

Such unfortunate mental vacuity can only be a little less pernicious than definitely bad mental content. What specific ideation or imagery may be harmful to the individual or to society through the individual is, of course, impossible here to discuss in detail. The most disturbing mental content no doubt centers about sex matters, with the sometimes ensuing misconduct, irritability, dissatisfactions, deleterious physical and mental habits, repressions, or mental conflicts. Or the flow of mental life may be most unfortunately given over in considerable measure to ideation concerning stealing or gambling or other misconduct or to undesirable notions of adventure. Ideas and imagery may recur so frequently and with such force that they become really obsessive, even in instances not so extreme that there is indication of pathological conditions of the mind in general. We have many times studied the facts concerning young people who have first learned tabooed words under disturbing circumstances, the words then forcibly weaving themselves into the mental content and causing emotional stresses and impulsions. That the chain of causation must be brought into the light of full consciousness before effective curative processes can be initiated is now a well-accepted fact. (The method of aiding the individual to this self-realization is the analysis of the mental life familiar to those who are acquainted with the work of Freud. In various modified forms this method is most helpful in studying the mental content.)

*Illustrative cases.* Our case studies are replete with findings of the bearings of mental content upon social and moral behavior and even upon reactions to educational and vocational adjustments.

Sometimes it is an idea or thought rather than a word; again it is a visual image, a picture. A boy, not yet thirteen years old, was in court after a series of burglaries so remarkable as to become featured in the newspapers. In the course of inquiry concerning beginnings he told of various experiences, on the basis of which most vivid imagery had developed. From an older boy he had heard much of stealing: "He made the idea come up in my mind and sometimes I can hardly get it out. I always think of breaking in. Breaking in comes in my mind every minute sometimes. It's like chains that hold you."

It must be patent that any re-educative process in these cases can be mainly achieved by building up substitutive, good mental content through developing better and more appealing interests. But it is

equally true that the essential trouble can never be fairly met until it is really known.

Of course these five phases or aspects of mental equipment upon which we have touched overlap and are interrelated in many ways and influence each other. The dynamic and personality qualities are closely related and the mental content is determined in part by these as well as by the mental abilities. In the integrated individual it is difficult to separate them, but for the purpose of analytic and practical study of the individual the five aspects of mental equipment should be kept in mind, and the striking characteristics of each noted.

This paper represents of necessity only a cursory and incomplete survey which sketches merely a *schema* that has proved useful both for purposes of diagnosis and recommendations. The time and effort such study requires has seemed amply justified by the specific social treatment that can be based on the findings and by the successful outcomes in many cases which social treatment so founded has achieved.

#### 47. ON THE USE OF THE TERM "FEEBLE-MINDED"<sup>1</sup>

The subject of feeble-mindedness is so persistently claiming attention in school and social measurements that it seems not untimely to make a plea for the more cautious use of the term "feeble-minded," especially in reports of investigations in which mental defect is a serious consideration. Research is so rapidly demonstrating the widespread significance of feeble-mindedness and its bearing on social and educational problems, that unless the workers in this field proceed with at least a fair amount of conservatism, there is danger of bringing the subject into disrepute. In fact, the literature already presents some obvious absurdities caused by the ill-considered use of terminology, and the failure to describe the limitations of the studies reported.

Binet and Simon, in 1905, showed that inferior intelligence is the fundamental distinguishing sign of feeble-mindedness, and ultimately devised a Measuring Scale of Intelligence which makes possible the relatively exact determination of intelligence levels, and which, when expertly evaluated and interpreted, throws much light on the analysis

<sup>1</sup>By E. A. Doll, Director, Division of Education and Classification, State of New Jersey Department of Institutions and Agencies. *Journal of the American Institute of Criminal Law and Criminology*, Vol. VIII, No. 2, pp. 216-221.

of mental states.<sup>1</sup> This Measuring Scale has so profoundly influenced all subsequent study of mental deficiency that many students are now on the verge of substituting an intelligence status for a diagnosis of feeble-mindedness. But while remaining fully conscious of the essential importance of the intelligence examination in determining feeble-mindedness, we must not permit ourselves to forget that it is not in itself a complete diagnostic method, more especially when only the gross mental age of an individual and not the sum total of mental symptoms obtained in the intelligence examination is employed. It is because even some reputable psychologists, as well as comparative laymen and "amateur Binet testers," apparently accept the intelligence classification as an equivalent of a differential diagnosis that a note of warning should be sounded.

It is sufficient to cite only a few reasons why intelligence status alone (whether expressed as mental age, mental retardation, intelligence quotient, or some other means) does not afford an adequate basis for the judgment of feeble-mindedness: (1) it does not in itself distinguish between developmental and degenerative defects, although this distinction is essential to prognosis; (2) it does not in itself distinguish between the superficially intelligent feeble-minded and the intellectually stupid normals, although this distinction is essential to the estimation of social competence; (3) it does not in itself, among young children, distinguish between potential defectiveness and potential normality, although this distinction is essential to early recognition; (4) it does not in itself distinguish between high-grade borderline defectives and low-grade borderline normals, although this distinction is essential to diagnosis. There is not sufficient space at my command to permit me to amplify the argument showing the scientific value of these distinctions, and the practical necessity for making them, but it must be obvious that failure to observe these shortcomings of the intelligence tests may lead one astray in his thinking.

In the minds of the more mature students of mental deficiency, the term "feeble-minded" has consistently been used to describe a condition which is differentiated from normality by social incompetence due to arrested mental development. There is as yet no good reason

<sup>1</sup> See *The Development of Intelligence in Children* and *The Intelligence of the Feeble-Minded*, by Alfred Binet and Th. Simon (translated by Elizabeth S. Kite). The Training School at Vineland, New Jersey, Vineland, 1916.



to reject this conception. To be sure it is rather too vague, as a standard, for scientific purposes, and a more exact criterion is much to be desired. But for some time to come it must remain the working basis for study and for developing other concepts.

At the present time no less than six major criteria of feeble-mindedness are employed by diagnosticians.<sup>1</sup> (1) It must be shown that the individual in question is, in terms of the classic and legal definition of the British Royal Commission on the Feeble-Minded, "incapable of competing on equal terms with his fellows, or of managing himself and his affairs with ordinary prudence." This standard, with subsequent verbal changes, is still authoritative. For feeble-minded juveniles, the Act of Parliament of 1899 substituted "incapable of receiving proper benefit from the instruction in the ordinary public elementary schools," and this is now the basis of the definition of high-grade mental deficiency in the English Mental Deficiency Act of 1913. But the social and pedagogical standards alone do not constitute the sole criterion of feeble-mindedness, for many persons are not able to compete on equal terms with their fellows or manage their affairs prudently, who nevertheless are not feeble-minded; for example, the insane, the non-feeble-minded epileptics, the physically disabled, and the many types of "human derelicts." Likewise many children receive no proper benefit from public school instruction who still are not feeble-minded; for example, the motor defectives, the sense defectives, the language defectives, the neural defectives, the physical defectives, in short, the great unclassified host who fill the ordinary "special classes." (2) It is to separate the social and pedagogical defectives who are feeble-minded from those who are normal that the definitions of feeble-mindedness all specify a second criterion, mental defect, as the cause of the social incompetence. This supplementary standard eliminates many social incompetents from the feeble-minded class, but does not eliminate some others, like the psychopathic and the insane. (3) This is accomplished by a third criterion, which specifies that the mental defect must be caused by arrest of development, and not, for example, by degeneration from normal states. Consequently,

<sup>1</sup>A detailed critical evaluation and description of these diagnostic criteria of feeble-mindedness, with six illustrative clinical cases, is presented in *Clinical Studies in Feeble-Mindedness*, by E. A. Doll. Richard G. Badger, Boston, 1917. About 200 pages.

the term "feeble-minded," if used technically, must imply at least these three considerations: (1) social incompetence, (2) resulting from mental defect, which is (3) caused by arrested mental development.

Three additional criteria are now recognized as aids in determining feeble-mindedness, although they are not themselves essential, but are considered symptomatic of the three just mentioned. (1) The social incompetence is particularly characterized by certain traits of behavior, such as innate limitations in ability to learn or to plan, the absence of judgment and foresight, incapacity for ready adaptation to unaccustomed situations, and many forms of social maladjustment, like poverty, improvidence, social "unconventionality," crimes, and misdemeanors. (2) The mental defect is essentially inferior intelligence level, and is associated with somatic retardation, physical anomalies, and neural defects or diseases. (3) The arrest of development is caused by inherited limitations of development and by various "accidents," that is, specified illnesses, diseases, functional disturbances, and traumas.

Because of these differential characteristics of the feeble-minded, mental deficiency in individuals must be diagnosed by a clinical consideration of all these traits. No authority on the subject has ever ventured to propose any one criterion as the sole standard of feeble-mindedness; all have unqualifiedly recommended the use of the complete clinical syllabus for examination. But on the other hand, no one has shown how to weight the several criteria if they conflict, nor how many and which symptoms constitute a minimum for differential diagnosis. This has tacitly been conceded to be a matter of expert judgment.

For these reasons it is necessary to urge that readers ought not unreservedly to accept as gospel the reports of investigations which present percentages of "feeble-minded" persons found to be present in school and social groups, unless this judgment of "feeble-minded" is supported by at least some clinical evidence offered in support of the classification obtained by the intelligence tests.<sup>1</sup> I mean by

<sup>1</sup>It is possible that in the future mental tests can be so interpreted as to dispense almost entirely with this clinical evidence. Binet did so interpret some results of his Measuring Scale (see *The Intelligence of the Feeble-Minded*, by Alfred Binet and Th. Simon), and some researches are now in progress to demonstrate the validity of such interpretation. But at present these methods of evaluating mental tests are not commonly recognized, and only gross "mental ages" are made use of in the statistical reports.

this, that if the investigator is unable to obtain diagnosis of feeble-mindedness he should state his results in terms of intelligence classification. Then if he wishes to use the term "feeble-minded" for subjects not clinically diagnosed, let him define his use of the term by stating his standard, whether in years of mental age, years of intelligence retardation, range of intelligence quotients, an upper limit of mental level, or what not. This method of presenting results avoids the implication that additional symptoms have been taken into account, and at the same time renders results much more useful and open to subsequent correction, if the intelligence standard undergoes material revision. Nothing is lost and much is gained, for the results have exactly the same significance, but they avoid the challenge of scientific incompleteness and thereby get a better hearing. Moreover, "feeble-minded" connotes quite different states even to professional workers, linked up as it is with historical conceptions. Such workers may not be ready to admit that forty per cent of delinquents are feeble-minded, but may not deny, let us say, that the I.Q.'s of forty per cent of delinquents are under .70. For example, as a result of examining 150 children in the first four grades of a certain school, 27 children were found with I.Q.'s under .70. I should err greatly if I termed these 27 individuals "feeble-minded" on the basis of their intelligence status alone. Perhaps all the 27 are feeble-minded, but surely the individual children and their parents have a claim to a more comprehensive consideration of their ultimate social competence. But there is no denying that these 27 are of a definite degree of inferior intelligence, and need special attention and instruction and may not be capable of certain kinds or amounts of work. This fact may disturb but need not antagonize either the parents or the teachers of these children.

The field of juvenile delinquency in particular has suffered from this indiscriminate use of terminology and the substitution of intelligence status for clinical diagnosis. The writer, with Mr. L. W. Crafts, has made a critical review and evaluation of the literature in this field, and found a most chaotic confusion of investigating methods and classificatory criteria. Hardly a half-dozen of the studies of the relation of feeble-mindedness to juvenile delinquency can withstand critical analysis.<sup>1</sup>

<sup>1</sup> As an example of the best of these studies see the "Report of the Psychological Department," by Dr. Grace M. Fernald, in the Second Biennial Report of the California School for Girls. Published by the California State Printing Office, 1916.

In many instances the fault is only one of presentation, but the presentation must be the reader's chief basis for opinion. In such instances the results may be true, but the reader is left without conclusive evidence.

There is another limitation to the use of intelligence tests alone in judging feeble-mindedness, which is its bearing on the converse judgments of normality. A certain percentage (no one knows how great) of young children prove to be feeble-minded by clinical diagnosis, who classify as normal by their intelligence status. There is also an appreciable percentage of borderline cases of high-grade feeble-mindedness who classify as "borderline," "doubtful," "low normal," or "dull normal" by the intelligence tests, but who prove to be feeble-minded by the evidence of the complete diagnosis. From the standpoint of science and of social welfare, it is just as important to recognize these potential and real defectives instead of terming them "normal," as it is to unwarrantedly term some normals "feeble-minded." In the averages and percentages these two errors compensate to some unknown extent, but the disposition of individual persons should not be made so hastily.

The use of the intelligence examination has enabled us to travel a long distance in a short time along the highways of social and educational readjustments. It is not my intention to underrate its immense value, but to conserve its importance by confining it to its own limits. I myself believe that for averages, and in a remarkably high percentage of individual cases, the intelligence examination, expertly administered and evaluated, not only is the essential basis of the diagnosis of feeble-mindedness, but even proves nearly a complete diagnostic as well as classificatory method, provided that the individual in question is not a borderline case and provided that the demonstrated inferior intelligence is an arrested mental state. Indeed, in my own experience, not wholly confined to institutional cases, the intelligence method alone and unsupported by the additional clinical data would have erred only by excluding some defectives as normal rather than by including any normals as defectives, as proved by subsequent case histories. We need experimental studies which shall show the percentage of accuracy which can be obtained in mental diagnosis by the use of the intelligence method alone. This method certainly is more exact as a method than is any other part of the clinical syllabus, certainly it is more fundamental, and certainly it is more practicable.



## CHAPTER XIV

### HEREDITY AND DEGENERACY

#### 48. THE JUKES IN 1915<sup>1</sup>

In 1875 Richard L. Dugdale made the first public announcement of his study of the Juke family in the annual report of the Prison Association of New York, of whose executive committee he was a member. In July, 1874, he was chosen a committee of one to inspect thirteen of the county jails of the State of New York. He made a tour of the State, inspected the jails, and in each place asked of every prisoner a set of questions which had been formulated by him with the help of Dr. Elisha Harris (then corresponding secretary of the association) regarding the prisoners' heredity and environment. No particular cases of striking family history were discovered until he reached Z County, where he found six persons under four family names, who were blood relations in some degree.

The oldest (Benjamin), a man of fifty-five, was awaiting trial for receiving stolen goods; his daughter, aged eighteen, held as witness against him; her uncle (Antonio), aged forty-two, burglary in the first degree; the illegitimate daughter of the latter's wife, aged twelve years, upon which child the latter had attempted rape, to be sent to the reformatory for vagrancy; and two brothers in another branch of the family, aged respectively nineteen and fourteen, accused of an assault with intent to kill, they having maliciously pushed a child over a high cliff and nearly killed him.

Consultation with the sheriff of the county and with a physician eighty-four years of age, who had practiced in that and neighboring counties, showed that these people belonged to a long lineage, reaching back to the early settlers of New York State, and that they had intermarried little with immigrant stock and were therefore a strictly American family.

<sup>1</sup>By Arthur H. Estabrook, Ph.D., of the Eugenics Record Office. Publication No. 240, Carnegie Institution of Washington, 1916. Adapted from pages 1-3, 50-52, 56, 62-64, 69-71, 77-78, 82, 85.

In 1877 the report was again published, this time in book form, by G. P. Putnam's Sons, and is now in its fourth edition. The book has been widely read and has had a great influence. It has stimulated discussion and led many to study the interaction of the "forces of heredity and environment." Dugdale was very cautious in the conclusions which he drew. The book does not demonstrate the inheritance of criminality, pauperism, or harlotry, but it does show that heredity with certain environmental conditions determines criminality, harlotry, and pauperism.

In this book (Estabrook, *The Jukes in 1915*), as in Dugdale's, all names are fictitious. It has seemed best, for purposes of the treatment, to assign names to certain heads of families in the middle generations as Dugdale did in the earlier. The original data are on file at the Eugenics Record Office, Cold Spring Harbor, New York.

The present study of the Juke family was made possible by the chance discovery of the original manuscript Juke record of Dugdale. In January, 1912, the investigation was started.\* It has been persistently carried on for three years in fourteen States of the Union. Every Juke possible to see has been personally visited. Care has been taken to check all data secured. Official records from State prisons, county clerks' offices, and sheriffs' books have been used for data as to crime. Records of State Boards of Charities, almshouses, and poor commissioners have been used for data of pauperism. Other institutional records have been used in suitable cases.

Dugdale studied 709 persons, 540 being of Juke blood and 169 of "X" blood who had married into the Juke family. He estimated that the Juke family would consist of 1200 persons were it possible to have traced all the lines of descent from the original six sisters. Of the 709 whom he studied, 180 had either been in the poorhouse or received outdoor relief to the extent of eight hundred years. There had been 140 criminals and offenders, 60 habitual thieves, 7 lives sacrificed by murder, 50 common prostitutes, 40 women venereally diseased contaminating 440 persons, and 30 prosecutions in bastardy. The total cost to the State of New York of this one group of mental and social degenerates was estimated, for a period of seventy-five years beginning in 1800, at \$1,308,000.

*Jukes to 1915 for purposes of comparison.* In the present investigation 2820 people have been studied, inclusive of all considered by

Dugdale; 2094 were of Juke blood and 726 of "X" blood who married into the Juke family; of these 366 were paupers, while 171 were criminals and 10 lives have been sacrificed by murder. In school work 62 did well, 288 did fairly, while 458 were retarded two or more years. It is known that 166 never attended school; the school data for the rest of the family were unobtainable. There were 282 intemperate and 277 harlots. The total cost to the State had been estimated at \$2,093,685.

*Habitat and social status.* Most of the original Jukes were squatters on the soil and became owners by occupancy. They lived in stone or log houses, usually of one or at the most two rooms, the men, women, and children intermingling freely. Here the Jukes lived for a period of one hundred years. The cement industry was discontinued in 1880, owing to the introduction of Portland cement, and a general exodus of the remaining Jukes took place. Now there is not a single Juke living in the ancestral area, and only ruins of these abodes remain.

As the Jukes increased in number a community of criminal men, semi-industrious laborers, and licentious women developed. Children grew up in an atmosphere of poverty, crime, and licentiousness. The girls and young women of these families were very comely in appearance and loose in morals. This combination attracted the men from a nearby city, even those of so-called "good" families. These illicit unions brought forth many an illegitimate child, named usually after the supposed father; as a result one finds among the Jukes some of the most honored names of the region. In this way syphilis has been spread from these harlots to the good and virtuous wives in the nearby community. These Jukes were and are still so despised by the reputable communities nearby that the statement of Dugdale's that "their family name had come to be used generically as a term of reproach" is still true. If anyone in the community now commits even a slight indiscretion he is told that he is acting like a "Juke."<sup>1</sup> The owner of one factory in Z<sup>2</sup> kept a list of Juke names in his office. When

<sup>1</sup> Locally instead of the word Juke being used the name of the five lakes is supplied.

<sup>2</sup> Z refers to a city of 20,000 people near the five-lake region where the Jukes lived. Z County is the county in which Z is situated and is the present home of many of the Jukes. Y is a small village in Z County, about one mile from the lake region.

anyone applied for employment and his family name appeared in the list, he was refused work. Such is the feeling of the community towards the Jukes.

*The first two generations of Jukes.* It was in this region, inaccessible and unfertile, that Max was born somewhere between 1720 and 1740. He is described as "a hunter and fisher, a hard drinker, jolly and companionable, and averse to steady toil." He had many children—two of whom, Harry and Harvey, married two out of six sisters. All these six sisters were children of the same mother and four bore the same family name, while the name of two seems to be obscure, and these are for this reason assumed to be illegitimate. One of these six sisters left the country and nothing is known of her. The other five are the renowned Juke sisters, Ada, Bell, Clara, Delia, and Effie.

Ada, who is better known both in Z County and to the general public as "Margaret, the mother of criminals," was born about 1755. She had one bastard child, Alexander. The group of Jukes that descended from Alexander is called the illegitimate posterity of Ada. Soon after this, Ada married Lem, and had four legitimate children, who formed the legitimate posterity of Ada. Ada was temperate and healthy, but not industrious, and in her old age received poor relief. Lem is described by Dugdale as follows: "Laborer; lazy; no property; outdoor relief; healthy; temperate; thief; received thirty lashes for sheep stealing; died 1810."

Bell, sister of Ada, had four bastard children before marriage, three of them mulattoes. She was unindustrious and a pauper, much like her sister. She had no property, received outdoor relief, and was temperate. She married Bruce, and died in 1832. Bruce was a Revolutionary soldier and received a pension. He was not industrious, never acquired any property, and received outdoor relief. He was temperate and not criminal. They had four legitimate children.

Clara, the third of the five sisters, was reputed chaste. She married Lawrence, who was licentious and had shot a man. Delia, the fourth sister, had two bastard and five legitimate children. Of Delia nothing is known further than that she was a prostitute. She married Harry, son of old Max. Nothing is known of Harry. The bastard children of Delia had no offspring. There is no personal information about Effie, the last of the five sisters. She married Harvey, the other son



of old Max mentioned above, who was probably a thief. They had four children.

*Population.* In this study 2820 individuals have been considered. Following Dugdale's terminology, the "Jukes" are all of those descended from the common mother, generation I, of the "five original Juke sisters." All others who married into or consorted with the Juke blood are called "X" blood. Table I gives the numbers of Jukes and of "X" blood grouped by generations.

TABLE I. POPULATION BY GENERATIONS

GENERATION	JUKE	"X"	TOTAL
I . . . . .	I	I	2
II . . . . .	5	5	10
III . . . . .	35	22	57
IV . . . . .	106	69	175
V . . . . .	269	195	464
VI . . . . .	741	330	1071
VII . . . . .	792	96	888
VIII . . . . .	143	8	151
IX . . . . .	2		2
Total . . . . .	2094	726	2820
(Dugdale) . . . . .	(540)	(169)	(709)

Of the 2094 Jukes enumerated, 378 died under the age of five years. There are 1258 of the described Jukes now living, scattered throughout twenty States of the Union and in Canada. Although many are old, the great majority are now in the prime of life and reproducing continually. The younger generation is still in school. The Jukes of to-day are to be found in all classes of society. The good citizen, prosperous and rearing a family with good moral and mental stamina, has earned his place in the community. Then there is the more numerous class, composed of steady, hard-working persons who toil from day to day at semi-skilled or unskilled labor and make no deep impression on the community, but rear their children as well as their limited outlook on the world will allow, endeavoring at least to rear them to the parental social level. Again, there is the scum of society represented among the Jukes. These are inefficient and indo-

lent, unwilling or unable to take advantage of any opportunity which offers itself or is offered to them. These form the real social problem of the Jukes of to-day.

An attempt has been made to classify the living Jukes into these three classes. There are 748 Jukes over the age of fifteen considered in this connection. There are, roughly speaking, 76 in the first class, the socially adequate; 255 individuals are doing fairly well; 323 are typical Jukes of the kind described by Dugdale; and 94 were unclassified, due to lack of sufficient information. The writer realizes that these figures mean little except to give a comparative idea of the general proportion of the three classes. As time goes on many of the younger ones classed as "doing poorly" may, through added responsibility and as the result of experience, enter the second or even the first class. Those who remain, not profiting by experience, are the mentally deficient, for whom nothing can be done except to give continual oversight and custodial care.

*Fecundity.* An analysis of the figures of the Jukes in regard to the birth-rate shows that of a total of 403 married Juke women, 330 reproduced one or more children and 73 were barren. The average fecundity, counting those who are barren, is 3.526 children per female. The 330 women having children have an average fecundity of 4.306 as compared with that of 4.025, based on 120 reproducing women in the Nam family. On the other hand, 265 of "X" blood in the Juke study, including 71 barren, had an average fecundity of 2.554.

*Consanguinity in marriage.* In looking over the marriage statistics in the Juke family, there are found 20 first-cousin matings, 20 second-cousin, 20 third-cousin, 8 fourth-cousin, and 1 fifth-cousin. There were in all 772 out-matings. Of all the matings, therefore, 9 per cent are consanguineous, an amount much less than that found in the Nams, which had 22 per cent. It is found that 23 per cent of the total matings in generation III are consanguineous. At that time the Jukes had not dispersed from their original home. The physical barriers prevented their seeking consorts from elsewhere, and the natural aversion of better families near by toward the Jukes aided this consanguinity by forcing Jukes to marry Jukes. In generation IV we find only 20 per cent of consanguineous matings. In generation V, with the beginning of the wholesale removal of the Jukes to other places, the amount of consanguinity drops to 12 per cent. In the

Nam it will be remembered that little dispersal had taken place until recently and then not to such distant localities. The amount of consanguinity is decreased to 5 per cent in generation VI, which is scattered much more widely than generation V; also many of generation VI are under marriageable age. In generation VII most of the individuals are still young.

As the Jukes in the sixth and seventh generations scattered here and there, they mated with other families rather than with their own, but they tended to marry like-to-like, and where there was the common defect in the germ-plasm the out-matings into defective germ-plasms were as baneful in results as cousin-mating in Juke stock. Consanguineous marriages are less a cause of degeneration than an indication of the geographical barriers of a region that prohibit the free choice of mates and intensify the tendency of like to mate with like.

*Harlotry.* It will be interesting to take the mere aggregate figures of harlotry and compare the Jukes of to-day with those living previous to 1874. Table III of Dugdale's book shows that 84 of 162 marriageable women in the Juke blood were harlots, making a percentage of harlotry of 52.4. To-day there are 541 female Jukes of marriageable age (including those of Dugdale), 277 of whom have been harlots, or 51.20 per cent. It is obvious from these figures that harlotry has decreased but little in the Juke blood.

*Pauperism.* In 1874 Dugdale recorded 148 Jukes and 58 of "X" blood who received pauper relief either in their own homes or in almshouses. The cost of this poor relief from 1800 to 1875 was \$20,680. Many of the poor-master's books were missing in Dugdale's time; in fact, only one-third of the poor records of that period were available to Dugdale for study. Since 1875, as before, each poor-master has kept his own records and these are very incomplete. At the end of the poor-master's term of office the record was either purposely destroyed or often thrown away as valueless. I have been unable, therefore, to make complete research into the amount of outdoor relief given to the Jukes in their homes during the past forty years. The amount of almshouse care is taken from official records. When poor relief is noted in the description, the data come from official records or the memory of poor-masters or other reliable persons. The statistical summary gives 129 Jukes and 48 of "X" blood receiving poor relief to the extent of eight hundred and fifteen years,

and 170 Jukes and 19 of "X" blood receiving almshouse care to the extent of four hundred and ninety-five years. Dugdale estimated the cost of poor relief to 1875 at \$20,680. As outdoor relief now averages \$30 a year per recipient in the Juke region, and almshouse or institutional care (for children) will average \$150 per year, the total cost of the poor relief since that time is estimated at \$2430 for outdoor relief and \$60,600 in almshouse care, making a total of \$83,710 of public money disbursed for poor relief.

*Intemperance.* The Jukes have no distinctive or characteristic groups of alcoholics, such as characterized the Nams. Of the Jukes 181, and of "X" blood 101, are classed as intemperate, and the occasional drunkards, as well as the steady drinkers, are included in this total. These are scattered through the whole Juke family.

*Crime.* There are 118 criminals of Juke blood and 53 of "X" blood in the Juke study. The amount of crime in the Jukes has not increased relatively as fast as the population, and there are not as many vicious criminals to-day as at the time when Dugdale studied them. The marked criminality in Dugdale's time, which led to his study of this family and which has characterized the Jukes as distinctive from other families, is now no longer found. The dispersal of the family in 1880 has prevented the congregate stealing, and so the crimes which are now committed are more often the product of a single brain than formerly and not so daring. The illegitimate group of Ada's descendants are to-day more criminal than the rest of the family, yet even among these, many families of law-abiding citizens may be found.

The offspring are classified according to the mating of the parents. Six matings of criminal  $\times$  criminal produce 58 per cent criminals, 16 per cent sex offenders, 6 per cent criminalistic, while 19 per cent are self-controlled.

If criminality is a recessive trait, a  $C \times C$  mating should produce 100 per cent criminal offspring. If self-control is recessive, then an  $H \times H$  mating should give 100 per cent honest offspring. The two groupings above show that neither the  $C \times C$  nor  $H \times H$  matings give 100 per cent of that trait in the offspring, irrespective of whether the sex offenders are classed with the criminal or the self-controlled. There is, indeed, no good reason for regarding criminality as a unit biological trait.



*Changed Environment*

*Voluntary removals to a new country.* The home of the first Jukes was a rock-rimmed area of a few acres. In 1850 the population of this area had gradually become more dense and some of the more energetic and active Jukes migrated to neighboring communities and settled there. The cement mines closed in 1870, and the remaining Jukes in the ancestral area left, since no steady occupation remained for anyone. The more feeble-minded and shiftless ones removed to other localities physiographically similar to the one in which they had lived, but rather nearer the centers of population and the prosperous farming areas. The energetic ones went into good farming sections or into the cities. At this time several groups went to Connecticut, others to New York City or its environs, while others went to New Jersey.

Ella, of Juke blood, married Homer, of outside blood, went West in 1850, as mentioned above, and finally settled in Minnesota, where they reared seven children, who in turn have produced many offspring.

The descendants of the Ella-Homer marriage have all been brought up in Minnesota, in a community entirely unlike the Juke home community and where they were not handicapped on account of their family name. Only two of the descendants of Ella can be called socially good citizens. The rest are either mentally defective, licentious, semi-industrious, or dishonest. The only explanation of this is heredity: the common ancestor of this western group, Ella, herself not anti-social, had brothers and sisters who were the most vicious and depraved of all the Jukes. These same traits have appeared in her children, though not to such a marked degree and consequently not so capable of social damage. Not one of this western group has ever been arrested, although several are dishonest and have stolen money, and many are licentious. Here heredity has been more potent than the environment, but the behavior of the anti-social individuals produced in this group has been tempered by an improved environment. The future of this group looks more hopeful, as the younger generation is marrying into better stocks, and so the general mental and social average of this family will gradually rise.

*Involuntary removals.* Society, through its charity organizations, has taken many Juke children from poor living conditions and trans-

ferred them to distant homes. Out of 118 individuals, 33 have been placed in foster homes either in the Juke region, in New York State, or in the Middle West; 16 of these 33 have been placed in foster homes in the Middle West, where there is little chance that they will return to their Juke brethren; 7 of these are doing well; 9 are doing poorly. A child is classed as doing poorly if he is three or more years retarded in his school work (providing he has attended school regularly for several years) and does not respond to the customs and rules of the home in which he is placed. There were 17 placed in foster homes in or near New York State; trace of 2 of these has been lost, 8 are doing well, while 7 have done poorly. When it is considered that in all probability all of these would have been poor citizens had they remained in the environment from which they were taken, the result would seem to approve the action of society in removing them from their poor surroundings. But such approval can not be given unreservedly. All of them, with perhaps the exception of three or four, must carry in their germ-plasm the determiners for certain undesirable traits, such as alcoholism, epilepsy, and licentiousness. This is shown by a study of their immediate ancestors. Unless these individuals mate intelligently with a thought to their future offspring much social damage may be done by introducing into new localities germ-plasms such as these of the Jukes. A member of this family (VI 226), whose parents were criminal, was placed out in the Middle West when nine years old and adopted into a good family. At forty-two he is married and procreating children who, though young, already show retardation in their school work. It would have been better for the future race had these parents been kept under some sort of supervision and their capacity for reproduction restricted. The nine socially unfit, now in the Middle West, will likely mate with others like themselves and so start new Juke strains. The seven now in the West who are doing well will mate higher than the others, but their hidden defects, present in the germ-plasm, may crop out and so cause social and mental deficiency. Not even the improved environment counteracts the innate defects of the Jukes.

*Insanity.* Only four cases of insanity have been found among the Jukes. In comparison with the general population of the State of New York, where all the insane Jukes live, there is less insanity among the Jukes pro rata than in the whole population. There is approxi-

mately 1 insane person to every 300 of the population in the State at large, while, among the Jukes there is only 1 to 500, or 1 to 400, if the Jukes who died in infancy are deducted from the total.

*Epilepsy.* Nine cases of epilepsy are recorded among the Jukes. As no survey of New York State has been made for the frequency of this disease in the population it is impossible to make a comparison between the amount of epilepsy in this group and in the general population. In New Jersey a partial survey indicates 1 epileptic to every 1100 of the population. The proportion in the Jukes is 1 epileptic to every 230. Of these cases 7 are scattered, while 2 are closely related, being grandmother and granddaughter. The mating of epilepsy in Adelaide and of alcoholism in Lester produced 1 female with migraine, 1 neurotic and now addicted to drugs, 1 eccentric, 3 persons with no nervous affections, and 3 dead. The first of these, with severe migraine, married an alcoholic and produced 1 epileptic, 1 sex offender, and 1 who died in infancy. Here the epilepsy is clearly inherited. On one side of the ancestry is a neuropathic strain, on the other, alcoholism.

*Eugenic matings.* A rough classification of the 399 fertile marriages among the Jukes gives 176 eugenic matings and 223 cacogenic matings. In the opinion of the writer, who has studied the people and their offspring, 55 per cent of the matings are detrimental to the forward progress of the Juke family, while 45 per cent may be considered eugenic or beneficial. The standard of a eugenic mating has been put low, as it is desired to give everyone the benefit of the effect of environment. Had these cacogenic matings been forbidden or if offspring had been prevented by sterilization, it is safe to say that in the next generation less than 5 per cent of the whole offspring would have shown undesirable traits. As it is now, with unrestricted reproduction, over half the offspring either is mentally defective or has anti-social traits.

*Social damage.* Dugdale estimated a loss to society of \$1,250,000 by the Juke family from 1800 to 1875, not including the drink bill. The loss to society caused by mental deficiency, crime, prostitution, syphilis, and pauperism of these 2800 people is estimated now at \$2,093,685. If the drink bill is added, this total becomes \$2,516,685. It is estimated that \$648,000 of pension money has been paid to the Jukes. Much, if not most of this, has been spent for whisky and the

rest has furnished support which in most cases would otherwise have been furnished by pauper relief.

To counterbalance this cost, the earnings of three individuals (numbered V 106, VI 89, and VI 140) total \$160,000, and some of the other Jukes are self-supporting, but the earning power of the few industrious Jukes cannot overbalance this deficit to society.

TABLE XVI. FINANCIAL ESTIMATE OF COST OF JUKES TO SOCIETY

(Statement modeled after that of Dugdale, for comparison with his.)

Total number of persons . . . . .	2820	
Number of pauperized adults . . . . .	366	
Cost of almshouse relief, \$150 per year . . . . .		\$70,200
Cost of outdoor relief . . . . .		13,510 <sup>1</sup>
Number of criminals . . . . .	171	
Years of imprisonment . . . . .	375	
Cost of maintenance, at \$200 per year . . . . .		75,000
Cost of Willett-Lillie murder . . . . .		13,000
Number of arrests and trials . . . . .	300	
Cost \$100 each . . . . .		30,000
Number of habitual thieves . . . . .	80	
Number of years of depredation, at twelve years each . . . . .	960	
Cost, at \$120 per year . . . . .		115,200
Number of lives sacrificed by murder . . . . .	10	
Value, \$1200 each . . . . .		12,000
Number of prostitutes . . . . .	175	
Average number of years of debauch . . . . .	15	
Total number of years of debauch . . . . .	2625	
Cost of maintenance, at \$300 each per year . . . . .		787,500
Number of women specifically diseased . . . . .	55	
Average number of men each woman contaminated with permanent disease . . . . .	10	
Total men contaminated . . . . .	550	
Wives contaminated by above men . . . . .	55	
Total number of persons contaminated . . . . .	660	
Cost of treatment rest of life, \$50 each . . . . .		33,000
Loss of wages by 550 men, three years each . . . . .	1650	
Loss, at \$400 per year . . . . .		660,000
Total number of years lost from productive industry by courtesans, five years each . . . . .	875	
Loss, at \$125 per year . . . . .		109,375
Loss in curtailment of life of 660 people, equivalent to 65 people, at \$1200 . . . . .		78,000
Aggregate of children who died prematurely . . . . .	378	
Cash cost, \$50 each child . . . . .		18,900

<sup>1</sup>This figure is based on the estimate of Dugdale, *The Jukes* (4th ed.), p. 29.



Number of prosecutions in bastardy . . . . .	40	
Cost, at \$100 each . . . . .		\$4,000
Cost of property destroyed in brawls . . . . .		20,000
Capital in brothels . . . . .		6,000
Compound interest, twenty-six years, at 6 per cent . . . . .		18,000
Charity distributed by church . . . . .		20,000
Charity obtained by begging . . . . .		10,000
<i>Total</i> . . . . .		<hr/> \$2,093,685
Drink bill, 282 intemperate, losing an average of \$50 per year for thirty years . . . . .		423,000
<i>Grand total</i> . . . . .		<hr/> \$2,516,685

NOTE. Pension money paid to Jukes as Civil War soldiers or  
soldiers' widows . . . . . \$648,000

NOTE. Total earnings of three productive Jukes:	
Earnings of V 106 . . . . .	\$100,000
Earnings of VI 140 . . . . .	10,000
Earnings of VI 89 . . . . .	50,000
Total earnings of three well-to-do Jukes . . . . .	<hr/> \$160,000

*Statistical summaries of the Jukes.* Twelve hundred and fifty-eight individuals descended from the five original Juke sisters are living in 1915; 186 of these are under the age of six, the majority of whom are in average, good, moral homes, i.e., under good environment. It will be of value to eugenics to study these after they have reached maturity. Three hundred and twenty-four Jukes are between the ages of six and fifteen.

A study of all males of the Jukes who are now living over the age of nineteen, and all females over the age of fifteen, shows that 65 are classed as good citizens, 255 as "fair" in their social reaction, while 305 are anti-social in their behavior, a detriment to society. Three hundred and five, or 43 per cent, of a total of 705 in this group are inimical to the general welfare of the community; 51 of these are prostitutes at present, while 82 others have been prostitutes at one time or another but are not now so; 41 are criminal, and 103 are marked cases of mental defect; 83 are intemperate; 152 are industrious.

*General summary.* The primary aim of this work is to present the facts of the lives of the Jukes. For the past one hundred and thirty years they have increased from five sisters to a family which numbers 2094 people, of whom 1258 were living in 1915. One half of the Jukes

were and are feeble-minded, mentally incapable of responding normally to the expectations of society, brought up under faulty environmental conditions which they consider normal, satisfied with the fulfillment of natural passions and desires, and with no ambition or ideals in life. The other half, perhaps normal mentally and emotionally, has become socially adequate or inadequate, depending on the chance of the individual reaching or failing to reach an environment which would mold and stimulate his inherited social traits.

This study demonstrates the following:

1. Cousin-matings in defective germ-plasms are undesirable, since they produce defective offspring irrespective of the parents' somatic make-up.

2. There is an hereditary factor in licentiousness, but there are those among the Jukes who are capable of meeting the requirements of the *mores* in sex matters if only great social pressure is brought to bear upon them.

3. Pauperism is an indication of weakness, physical or mental.

4. All of the Juke criminals were feeble-minded, and the eradication of crime in defective stocks depends upon the elimination of mental deficiency.

5. Removal of Jukes from their original habitat to new regions is beneficial to the stock itself, as better social pressure is brought to bear on them, and there is a chance of mating into better families.

6. One in four of the Jukes is improved socially by care in Children's Institutions.

7. Penal institutions have little beneficial influence upon persons of defective mentality.

The natural question which arises in the reader's mind is, What can be done to prevent the breeding of these defectives? Two practical solutions of this problem are apparent. One of these is the permanent custodial care of the feeble-minded men and all feeble-minded women of child-bearing age. The other is the sterilization of those whose germ-plasm contains the defects which society wishes to eliminate.

The first is practicable, since there are now many custodial institutions for the feeble-minded and epileptic, and in some of these the patients are partially self-supporting. These institutions should be increased in number and capacity to receive all the defectives now at large. Out of approximately six hundred living feeble-minded and

epileptic Jukes, there are now only three in custodial care. It is estimated that at the end of fifty years the defective germ-plasm would be practically eliminated by the segregation of all of the six hundred.

#### NOTE ON THE HEREDITY OF FEEBLE-MINDEDNESS<sup>1</sup>

Evidence is daily accumulating, even if it is not yet entirely convincing, that feeble-mindedness is to a great extent an hereditary condition. The following table summarizing Goddard's data<sup>2</sup> shows how accurately this is borne out by actual field investigations:

HEREDITY OF FEEBLE-MINDEDNESS (MENDELIAN)

TYPE OF MATING <sup>3</sup>	NUMBER OF MATINGS	TOTAL OFFSPRING	DEAD AND MENTALITY UNDETERMINED	FEEBLE-MINDED OFFSPRING		NORMAL OFFSPRING	
				Actual Findings	Theoretical Expectation	Actual Findings	Theoretical Expectation
FF-FF	144	749	267	476	482	6	none
FF-NF	122	698	327	193	185½	178	185½
FF-NN	18	66	32	none	none	34	34
NF-NF	33	212	66	39	36½	107	109½
NF-NN	7	27	4	none	none	23	23
Totals	324	1752	696	708	704	348	352

The close correspondence between actual findings and theoretical expectation in the above table is most remarkable and strongly confirms the assumption that feeble-mindedness is a distinct hereditary condition. On the one hand, 708 feeble-minded individuals were found, when one would theoretically expect 704, and on the other hand, 348 normals were found, when one would theoretically expect 352. No controlled experiments could yield any greater conformity between accepted theory and actual results.

<sup>1</sup>From "The Borderlines of Mental Deficiency," by Samuel C. Kohns, Psychologist in the Chicago House of Correction, *Proceedings of the National Conference of Charities and Correction*, 1916, p. 282.

<sup>2</sup>H. H. Goddard, *Feeble-mindedness: its Causes and Consequences*. The Macmillan Company, New York, 1914. 599 pages.

<sup>3</sup>FF indicates an individual who is feeble-minded. None of the sperm or egg cells produced possess the determiner or the combination of determiners or factors which makes for normal-mindedness. NF represents a normal individual, half of whose germ cells are capable of transmitting normality, and half not. NN represents a normal individual, all of whose germ cells transmit the potentiality for normal mental development.

## CHAPTER XV

### MENTAL DEFICIENCY

#### 49. THE FEEBLE-MINDED IN INSTITUTIONS, 1910<sup>1</sup>

Feeble-mindedness has been broadly defined as comprising all degrees of mental defect due to arrested or imperfect mental development as a result of which the person so affected is incapable of competing on equal terms with his normal fellows, or of managing himself or his affairs with ordinary prudence. The feeble-minded as thus defined range in mental development from those whose mentality does not exceed that of a normal child of two years to those whose mentality is as high as that of a child of twelve. The great majority of the feeble-minded are not confined in institutions but live at large; many are inmates of prisons and reformatories; many others are in almshouses, and some are confined in hospitals for the insane. Only a small fraction of the feeble-minded are taken care of in special institutions designed for that class, but the development of recent years is in the direction of providing such institutions, and for that reason the statistics in this report which deals with the inmates of this class of institutions have a timely social significance. In 1904 and again in 1910 the census was restricted to the inmates of special institutions for this class.

As late as 1890 only sixteen states had provided separate institutions for the feeble-minded, and the number of such institutions was only 24. In 1904 the number of institutions had increased to 42, and the number of states making such provision was twenty-five. In 1910 there were 63 institutions reported by thirty-one states. At the present writing (1914) there are only seven states which make no special provision for this class of defectives; and in an increasing number of states the statutes provide for their transfer

<sup>1</sup>From "The Insane and Feeble-Minded in Institutions," pp. 183, 184, 190. Department of Commerce, Bureau of the Census, 1910. Government Printing Office, Washington, 1914.



from almshouses to separate institutions as rapidly as possible. In the 1890 census the institutional population, enumerated as feeble-minded, included 5254 in special institutions and 2469 in hospitals for the insane; and in addition to these 7811 inmates of almshouses were returned as "idiots," making a total of 15,534 feeble-minded or idiots. On January 1, 1904, a total of 30,898 feeble-minded persons were either in special institutions or in almshouses, and on January 1, 1910, a total of 33,969.

An indication of the situation as to the feeble-minded in a single state is furnished by the report of the Massachusetts state board of insanity, which has charge of institutions for this class. According to the report of this board for 1912, the results of a special census of the feeble-minded showed a total of 5007 feeble-minded enumerated in the general population (2640 males and 2367 females). In addition, 245 were reported by overseers of the poor, making 5252 not in institutions. The number in institutions was 2587, including 1915 in two state institutions for the feeble-minded and 672 in state hospitals and asylums. According to this census the total number of feeble-minded in the state was therefore 7839. The census was not regarded as being complete, but it is of interest to note that if the number of feeble-minded in proportion to total population was the same for the entire United States as it was in Massachusetts according to this census, the total number of feeble-minded would be over 200,000. Probably this may be regarded as a conservative estimate of the number of feeble-minded in the United States. It would indicate that not over one-tenth of the feeble-minded are being cared for in special institutions.

A large proportion of the feeble-minded are physically defective—that is, blind, deaf, crippled, maimed or deformed, paralytic or epileptic. Out of a total of 20,731 persons enumerated on January 1, 1910, in institutions for the feeble-minded, 5246, or 25.3 per cent, are reported as thus defective, while of the 3825 admitted to the institutions during the year, 910, or 23.8 per cent, were defective.<sup>1</sup>

<sup>1</sup>These figures will be displaced by the census of the feeble-minded for 1922 which is being prepared for publication by the Bureau of the Census as this volume goes to press.—ED.

## 50. EDUCATION OF THE FEEBLE-MINDED<sup>1</sup>

The first recorded attempt to educate an idiot was made about the year 1800 by Itard, the celebrated physician-in-chief to the National Institution for the Deaf and Dumb at Paris. His subject was a boy found wild in a forest in the centre of France and known as the "savage of Aveyron." "This boy could not speak any human tongue, and was devoid of all understanding and knowledge." Believing him to be a savage, for five years Itard endeavored with great skill and perseverance to develop at the same time the intelligence of his pupil and the theories of the materialistic school of philosophy. Itard finally became convinced that this boy was an idiot and abandoned the attempt to educate him.

In 1818 and for a few years afterward, several idiotic children were received and given instruction at the American Asylum for the Deaf and Dumb at Hartford, and a fair degree of improvement in their physical condition, habits, and speech was obtained.

Ten years later Dr. Ferret, physician at the Bicêtre in Paris, attempted to teach a few of the more intelligent idiots who were confined in this hospital to read and write and to train them to habits of cleanliness and order. In 1831 Dr. Fabret attempted the same work at the Salpêtrière; and in 1833 Dr. Voisin opened his private school for idiots in Paris. None of these attempts was successful enough to insure its continuance.

In 1837 Dr. E. Seguin, a pupil of Itard and Esquirol, began the private instruction of idiots at his own expense. In 1842 he was made the instructor of the school at the Bicêtre which had been reopened by Dr. Voisin in 1839. Dr. Seguin remained at the Bicêtre only one year, retiring to continue the work in his private school in the Hospice des Incurables. After seven years of patient work and experiments and the publication of two or three pamphlets describing the work, a committee from the Academy of Sciences at Paris in 1844 examined critically and thoroughly his methods of training and educating idiot children and reported to the Academy, giving them the highest commendation and declaring that, up to the time he commenced his labors

<sup>1</sup> By Walter E. Fernald, M. D., Superintendent of the Massachusetts School for the Feeble-Minded. From "The Growth of Provision for the Feeble-Minded in the United States," *Mental Hygiene*, Vol. I, No. 1, pp. 34-59.

in 1837, idiots could not be educated by any means previously known or practiced, but that he had solved the problem. His work thus approved by the highest authority, Dr. Seguin continued his private school in Paris until the Revolution in 1848. Then he came to America, where he was instrumental in establishing schools for idiots in various States.

In 1846 Dr. Seguin published his classical and comprehensive *Treatise on Idiocy*, which was crowned by the Academy and has continued up to the present time to be the standard textbook for all interested in the education of idiots. His elaborate system of teaching and training idiots consisted in the careful "adaptation of the principles of physiology, through physiological means and instruments, to the development of the dynamic, perceptive, reflective, and spontaneous functions of youth." This physiological education of defective brains, as a result of systematic training of the special senses, the functions and the muscular system, was looked upon as a visionary theory, but it has been verified and confirmed by modern experiments and researches in physiological psychology. Dr. Seguin's school was visited by scientists and philanthropists from nearly every part of the civilized world and, his methods bearing the test of experience, schools were soon established in other countries, based upon these methods.

In 1842 Dr. Guggenbuhl established a school upon the slope of the Abendenberg in Switzerland, for the care and training of cretins, so many of whom are found in the valleys of the Alps. This school was so successful in its results that it attracted much attention throughout Europe. At Berlin, in 1842, a school for the instruction of idiots was opened by Dr. Saegert. In England the publication of the results of the work of Drs. Seguin, Guggenbuhl, and Saegert led, through the efforts of Drs. Connolly and Reed, to the establishment of a private school at Bath in 1846, and later to the finely appointed establishments at Colchester and Earlswood.

The published description of the methods and results of these European schools attracted much interest and attention in America. In this country the necessity and humanity of caring for and scientifically treating the insane, the deaf and dumb, and the blind had become the policy of many of our most progressive States. The helpless, neglected, and homeless idiots were cared for, as a rule, in jails and poorhouses. A few who had been received at the special schools for the deaf and dumb, and the blind showed considerable improve-

ment after a period of training. Other cases who were especially troublesome had been sent to the insane hospitals, where it was shown that the habits and behavior of this class could be changed very much for the better. In their reports for 1845 Drs. Woodward and Brigham, superintendents of the State Insane Hospitals in Massachusetts and New York respectively, urged the necessity of making public provision for the education of idiots in those States. On the 13th of January, 1846, Dr. F. P. Backus, a member of the New York Senate, made the first step toward any legislative action in this country in behalf of idiots by moving that the portion of the last State census relating to idiots be referred to the committee on medical societies, of which he was chairman. On the following day he made an able report, giving the number of idiots in the State, a brief history of the European schools, with a description of their methods and results, and showed conclusively that schools for idiots were a want of the age. On the 25th of March following he introduced a bill providing for the establishment of an asylum for idiots. The bill passed the Senate, but was defeated in the Assembly.

In Massachusetts, on the 23d of January in the same year, 1846, Judge Byington, a member of the House of Representatives, moved an order providing for the appointment of a committee to "consider the expediency of appointing commissioners to inquire into the condition of idiots in the Commonwealth, to ascertain their number, and whether anything can be done for their relief." This order was passed and, as a result, a board of three commissioners was appointed, of which Dr. S. G. Howe was chairman. This commission made a report in part in 1847, which included a letter from Hon. G. S. Sumner describing in glowing terms the methods and results of the school of Dr. Seguin in Paris. In March, 1848, the commission made a complete and exhaustive report, with statistical tables and minute details, and recommended the opening of an experimental school. This report was widely circulated throughout America and Europe, and it furnishes to-day the basis of cyclopedic literature on this topic.

By a resolve passed on the 8th of May, 1848, the legislature appropriated \$2500 annually for the purpose of establishing an experimental school, with the proviso that ten indigent idiots from different parts of the State should be selected for instruction. This act founded the first State institution in America. The first pupil was received on



the 1st of October, 1848. The direction of the school was undertaken by Dr. Howe and for several years was carried on in connection with the Perkins Institution for the Blind, of which he was the director. Mr. J. B. Richards went to Europe to study the methods of the foreign schools. The school was considered so successful that at the end of three years the legislature doubled the appropriation and by incorporation converted the experimental school into a permanent one under the name of "The Massachusetts School for Idiotic and Feeble-minded Youth."

Two months after the legislature had authorized the establishment of this institution, a private school was opened at Barre, Massachusetts, by Dr. H. B. Wilbur, the first pupil being received in July, 1848. In the modest announcement of the project Dr. Wilbur said, "This institution is designed for the education and management of all children who by reason of mental infirmity are not fit subjects for ordinary school instruction." The school was organized on the family plan. The pupils all sat at the same table with the principal, and were constantly under the supervision of some member of the family in the hours of recreation and rest as well as of training.

In the State of New York the legislative attempt which was defeated in 1846 was renewed in 1847, when the bill passed the Senate, to be again defeated in the Assembly. The necessity for action was urged in the governors' annual messages in 1848, 1850, and 1851. Finally, in July, 1851, an act was passed appropriating \$6000 annually for two years for the purpose of maintaining an experimental school for idiots. A suitable building near Albany was rented and the school opened in October, 1851. The trustees selected for superintendent Dr. H. B. Wilbur, who had so successfully organized and conducted for more than three years the private school at Barre. In the first annual report of the trustees, published in 1851, the aims and purposes of the proposed school were summed up as follows:

We do not propose to create or supply faculties absolutely wanting; nor to bring all grades of idiocy to the same standard of development or discipline; nor to make them all capable of sustaining creditably all the relations of a social and moral life; but rather to give to dormant faculties the greatest possible development, and to apply these awakened faculties to a useful purpose under the control of an aroused and disciplined will. At the base of all our efforts lies the principle that, as a rule, none of the faculties are absolutely wanting, but dormant, undeveloped and imperfect.

This school attracted much attention from educators and others and was frequently and critically inspected by the members of the legislature and other State officials. On the 11th of April, 1853, the legislature authorized the erection of new buildings. The citizens of Syracuse donated the land, and the corner-stone of the first structure in this country built expressly for the purpose of caring for and training idiots was laid September 8, 1854. The school at Syracuse continued under Dr. Wilbur's direction until his death in 1883. In this school the physiological method of education was most thoroughly and scientifically carried out and a high degree of success attained.

Pennsylvania was the third State to take up the work. In the winter of 1852 a private school for idiots was opened in Germantown by Mr. J. B. Richards, the first teacher in the school at South Boston. This school was incorporated April 7, 1853, as the Pennsylvania Training School for Idiotic and Feeble-minded Children. The first money received for its support was raised by private subscription. The State contributed an equal sum. In 1855 the site at Elwyn was secured and the foundations laid for the present magnificent institutional village with more than a thousand inmates.

The Ohio Institution at Columbus was established April 17, 1857, and pupils were received the same year. The State of Ohio has from the beginning provided for her feeble-minded children on a liberal and generous scale. The institution at Columbus, with its substantial buildings and splendid equipment, its admirably conducted school and industrial departments, has been made one of the best institutions in the world devoted to the care and training of this special class.

In Connecticut, in 1855, a State commission was appointed to investigate the conditions of the idiotic population and to consider the advisability of making suitable provision for the education of this class. The report of this commission resulted in the establishment of the Connecticut School for Imbeciles at Lakeville in 1858, under the superintendency of Dr. H. M. Knight. This school, although aided by the State, was largely supported by private benevolence and payments from private pupils. In 1913 the property was taken over by the State.

The Kentucky institution at Frankfort was opened in 1860. For many years the State had granted an allowance of \$50 per annum to each needy family afflicted with the burden of a feeble-minded child,

a practice which is still continued. In Illinois an experimental school for idiots and feeble-minded children was opened in 1865 as an offshoot of the school for deaf-mutes at Jacksonville. In the course of a few years this school obtained a separate organization, and new institution buildings were constructed at Lincoln and occupied in 1873.

Thus, up to 1874, twenty-six years after this work was begun in America, public or semi-public institutions for the feeble-minded had been established in seven States. These institutions then had under training a total of 1041 pupils. There were also two private institutions in Massachusetts at Barre and Fayville, with a total of sixty-nine inmates.

The early history of these pioneer State institutions was in many respects very similar. They were practically all begun as tentative experiments in the face of great public distrust and doubt as to the value of the results to be obtained. In Connecticut the commissioners found a "settled conviction of a large majority of the citizens of the Commonwealth that idiots were a class so utterly helpless that it was a waste of time even to collect any statistics regarding them." Very little was known of the causes, frequency, nature, or varieties of idiocy, or of the principles and methods to be employed in successfully training and caring for this class of persons. The annual reports of the early superintendents, Howe, Wilbur, Brown, Parrish, and Knight, exhaustively considered the subject in all its phases, and graphically presented to legislators and the public convincing and unanswerable reasons as to the feasibility and necessity of granting to feeble-minded children the same opportunities for education according to their ability that were given to their more fortunate brothers and sisters in the public schools.

All these schools were organized as strictly educational institutions. In one of his earlier reports Dr. Howe said, "It is a link in the chain of common schools—the last indeed, but still a necessary link in order to embrace all the children in the State." Again he said, "This institution, being intended for a school, should not be converted into an asylum for incurables." Dr. Wilbur in his seventh annual report said, "A new institution in a new field of education has the double mission of securing the best possible results, and at the same time of making that impression upon the public mind as will give faith in its object." With the limited capacity of these schools, it seemed best to advocate the policy of admitting only the higher-grade cases, where

the resulting improvement and development could be compared with that of normal children.

It was hoped and believed that a large proportion of this higher-grade or "improvable" class of defectives could be so developed and educated that they would be capable of supporting themselves and of creditably maintaining an independent position in the community. It was maintained that the State should not assume their permanent care but that they should be returned to their homes after they had been trained and educated. It was the belief of the managers that only a relatively small number of inmates could be successfully cared for in one institution. It was deemed unwise to congregate a large number of persons suffering with any common infirmity.

Nearly all these early public institutions were opened at or near the capitals of their various States, in order that the members of the legislature might closely watch their operations and personally see their need and the results of the instruction and training of the children. No institution has ever been abandoned or given up after having been established. In all of them the applications for admission have always been far in excess of their capacity.

In the course of a few years we find the superintendents, in the annual reports of these institutions, regretting that it was not expedient to return to the community a certain number of the cases who had received all the instruction the school had to offer. When the limit of age was reached, it was a serious problem to decide what should be done with the trained boy or girl. It was found that only a small proportion, even of these selected pupils, could be so developed and improved that they could go out into the world and support themselves independently. A larger number, as a result of the school discipline and training, could be taken home, where they would become comparatively harmless and unobjectionable members of the family, capable, under the loving and watchful care of their friends, of earning by their labor as much as it cost to maintain them. In many other cases, however, the guardians or parents of these children were unwilling to remove them from the institutions and begged that they might be allowed to remain where they could be made happy and kept from harm. Many were homeless and friendless and, if sent away from the school, could be transferred only to almshouses, where they would become depraved and demoralized by association with



adult paupers and vagrants of both sexes. It was soon found neither wise nor humane to turn these boys and girls out to shift for themselves. The placing out of these feeble-minded persons, except under the most careful supervision, proved unsatisfactory. Even those who had suitable homes and relatives able and willing to become responsible for them were, by the death of these relatives, thrown on their own resources and drifted into pauperism and crime. It gradually became evident that a certain number of even these higher-grade cases needed lifelong care and supervision, and that there was no suitable provision for this permanent custody outside special institutions.

Once it was admitted that our full duty toward this class must include the retention and guardianship of some of those who had been trained in the schools, the wisdom and necessity of still further broadening the work became apparent. It was found that more than one-half of the applications for admission, and those by far the most insistent, were in behalf of the "unimprovables," as Dr. Howe described them. This lower class of idiots, many of them with untidy, disgusting, and disagreeable habits, feeble physically, perhaps deformed and misshapen, often partially paralyzed or subject to epilepsy, cannot be given suitable care at home. There is no greater burden possible in a home or a neighborhood. It has been well said that by institutional care, for every five idiots cared for we restore four productive persons to the community; for, whereas at home the care of each of these children practically requires the time and energies of one person, in an institution the proportion of paid employees is not over one to each five inmates. The home care of a low-grade idiot consumes so much of the working capacity of the wage-earner of the household that often the entire family becomes pauperized. Humanity and public policy demand that families should be relieved of the burden of helpless idiots. From the nature of their infirmities it is evident that the care of this class must last as long as they live. As nearly every low-grade idiot eventually becomes a public burden, it is better to assume this care when they are young and susceptible of a certain amount of training than to receive them later on, undisciplined, helpless, destructive, adult idiots.

The brighter classes of the feeble-minded, with their weak will power and deficient judgment, are easily influenced for evil and are prone to become vagrants, drunkards, and thieves. The modern scien-

tific study of the dependent and delinquent classes as a whole has demonstrated that a large proportion of our criminals, inebriates, and prostitutes are really congenital defectives, who have been allowed to grow up without any attempt being made to improve or discipline them. Society suffers the penalty of this neglect in an increase of pauperism and vice and finally, at greatly increased cost, is compelled to take charge of adult idiots in almshouses and hospitals and of mentally defective criminals in jails and prisons, generally during the remainder of their natural lives. As a matter of mere economy, it is now believed that it is better and cheaper for the community to assume the permanent custody of such persons before they have carried out a long career of expensive crime.

The tendency to lead dissolute lives is especially noticeable in the females. A feeble-minded girl is exposed as no other girl in the world is exposed. She has not sense enough to protect herself from the perils to which women are subjected. Often sunny in disposition and physically attractive, they either marry and bring forth in geometrical ratio a new generation of defectives and dependents, or become irresponsible sources of corruption and debauchery in the communities where they live. There is hardly a poorhouse in this land where there are not two or more feeble-minded women with from one to four illegitimate children each. There is every reason in morality, humanity, and public policy that these feeble-minded women should be under permanent and watchful guardianship, especially during the child-bearing age. A feeble-minded girl of the higher grade was accepted as a pupil at the Massachusetts School for the Feeble-minded when she was fifteen years of age. At the last moment the mother refused to send her to the school, as she "could not bear the disgrace of publicly admitting that she had a feeble-minded child." Ten years later the girl was committed to the institution by the court, after she had given birth to six illegitimate children, four of whom were still living and all feeble-minded. The city where she lived had supported her at the almshouse for a period of several months at each confinement, had been compelled to assume the burden of the life-long support of her progeny, and finally decided to place her in permanent custody. Her mother had died broken-hearted several years earlier.

The recognition of the characteristics, limitations, and needs of these various classes and the results of experience in their training,

care, and guardianship have materially modified and broadened the scope and policy of our American institutions for the feeble-minded. To-day the advantages of these public institutions are not confined to the brighter cases needing school training especially, but have been gradually extended to a greater or less extent in the different States to all the grades and types of idiocy. With all these various classes pleading for admission, it is not strange that many of these institutions have become far more extensive than their founders dreamed of or hoped for. Successive legislatures have been ready to enlarge existing institutions when they would not grant appropriations for establishing new ones. The evil effects feared from congregating a large number of this class have not been realized, or have been minimized by careful classification and separation of the different groups. In fact, we find we must congregate them to get the best results. In order to have companionship, that most necessary thing in the education of all children, we must have large numbers from which to make up our small classes of those who are of an equal degree of intelligence.

The essentially educational character of the earlier institutions has been maintained but the relations of the different parts of instruction are now better understood. The strictly school exercises, in the early days the most prominent feature, still perform their necessary and proper functions but now in harmony with but subsidiary to the more practical objects of the institution. Education, as applied to the development of these feeble-minded children, is now understood in its broadest sense, not as mere intellectual training but as uniform cultivation of the whole being, physically, mentally, and morally. The end and aim of all our teaching and training is to make the child helpful to himself and useful to others.

Sir W. Mitchell says:

It is of very little use to be able to read words of two or three letters, but it is of great use to teach an imbecile to put his clothes on and take them off, to be of cleanly habits, to eat tidily, to control his temper, to avoid hurting others, to act with politeness, to be truthful, to know something of numbers, to go with messages, to tell the hour by the clock, to know something of the value of coins, and a hundred other such things.

As now organized, our American institutions for the feeble-minded are broadly divided into two departments, the school or educational,



and the custodial. In the school department the children are instructed in the ordinary branches of the common schools. As compared with the education of normal children, the difference is one of degree and not of kind. The progressive games and occupations of the kindergarten, object teaching, educational gymnastics, manual training, and the other graphic and attractive methods now so successfully applied in the education of normal children are especially adapted to the training of the feeble-minded. These principles of physiological training of the senses and faculties, of exercising and developing the power of attention, perception, and judgment by teaching the qualities and properties of concrete objects instead of expecting the child to absorb ready-made knowledge from books, of progressively training the eye, the hand, and the ear—these were the methods formulated by Seguin and elaborated and applied by Richards, Wilbur, and Howe years before the era of the kindergarten and the dawn of the new education. It would be difficult properly to estimate the influence of these original and successful methods of instructing the feeble-minded in suggesting and shaping the radical changes that have been made in the methods of modern primary teaching of normal children. With feeble-minded children the instruction must begin on a lower plane; the progress is slower and the pupil cannot be carried so far. In a school with several hundred children a satisfactory gradation of classes can be made if the small proportion of children showing irregular and unusual deficiencies is assigned to special classes for instruction through individual methods.

Most of the pupils of this grade learn to read and write, to know something of numbers, and acquire a more or less practical knowledge of common affairs. Careful attention is paid to the inculcation of the simple principles of morality, the teaching of correct habits and behavior, and the observance of the ordinary amenities of life.

The most prominent feature of our educational training to-day is the attention paid to instruction in industrial occupations and manual labor. In this "education by doing" we not only have a very valuable means of exercising and developing the dormant faculties and defective bodies of our pupils, but at the same time we are training them to become capable and useful men and women. The recent reports of these institutions show in detail the large variety and amount of work done by these children. Carpentering, painting,



printing, brick-making, stock-raising, gardening, farming, domestic work, the manufacture of clothing, boots and shoes, brooms and brushes, and other industries are now successfully and profitably carried on by the pupils in these schools in connection with the strictly mental training.

Each year a certain number of persons of this class go out from such institutions and lead useful, harmless lives. Some of the institutions where only the brightest class of imbeciles are received and where the system of industrial training has been very carefully carried out, report that from 20 to 30 per cent of the pupils are discharged as absolutely self-supporting. In other institutions, where the lower-grade cases are received, the percentage of cases so discharged is considerably less. It is safe to say that not over 10 to 15 per cent of our inmates can be made self-supporting in the sense of going out into the community, securing and retaining a situation, and prudently spending their earnings. With all our training we cannot give our pupils that indispensable something known as good, plain "common sense." The amount and value of their labor depend upon the amount of oversight and supervision practicable; but it is safe to say that over 50 per cent of the adults of the higher grade who have been under training from childhood are capable, under intelligent supervision, of doing a sufficient amount of work to pay for the actual cost of their support, whether in an institution or at home.

The custodial department includes the lower grades of idiots and the epileptics. Some of these children are as helpless as infants, incapable of standing alone, of dressing or feeding themselves, or of making their wants known. Other cases are excitable and noisy, with markedly destructive tendencies. The chief indication with these lower-grade cases is to see that their wants are attended to, and to make them comfortable and happy as long as they live; but even with these cases much improvement is possible through teaching them to wait on themselves, to dress and undress, to feed themselves, and by attention to personal cleanliness and habits of order and obedience. As a result of the kindly but firm discipline, the patient habit-teaching, and the well-ordered institution routine, a large proportion of these children become much less troublesome and disgusting, so much so that the burden and expense of their care and support are materially and permanently lessened.

Requiring permanent care also are the moral imbeciles and the adults of both sexes who have graduated from the school department, or are past school age, but cannot safely be trusted, either for their own good or the good of the community, where not under strict and judicious surveillance. For these classes the institution provides a home where they may lead happy, harmless, useful lives.

The daily routine work of a large institution furnishes these trained adults with abundant opportunities for doing simple manual labor, which otherwise would have to be done by paid employees. Outside of an institution it would be impossible to secure the experienced and patient supervision and direction necessary to obtain practical, remunerative results from the comparatively unskilled labor of these feeble-minded people. In the institution the boys assist the baker, the carpenter, and the engineer. They do much of the shoemaking, the tailoring, and the painting. They drive teams, build roads, and dig ditches. Nearly all of the institutions have large farms and gardens which supply enormous quantities of milk and vegetables for the consumption of the inmates. This farm and garden work is largely done by the adult male imbeciles. The females do the laundry work, make the clothing and bedding, and do a large share of all the other domestic work of these immense households. Many of these adult females, naturally kind and gentle, have the instinctive feminine love for children, and are of great assistance in caring for the feeble and crippled children in the custodial department. These simple people are much happier and better off in every respect when they know they are doing some useful and necessary work. Some of the restless persons of the delinquent type could hardly be controlled and managed if their surplus energies were not worked off by a reasonable amount of manual labor.

In the early days of public provision for the mentally defective the tendency seemed to be to enlarge the institutions symmetrically as the demands for admission increased, without much attempt to distinguish certain groups which might be cared for more advantageously in an entirely different manner. Experience has shown that there is a form of care which not only greatly improves the physical and mental condition of one group of the feeble-minded but also reduces to practically nothing the actual cost of their maintenance. I refer to so-called "colony" care. Colony care does not, of course, do away

with the necessity for "institutional" care. Practically, it means that an institution may have its capacity increased many fold at almost no increase in total cost for maintenance.

In brief, the plan includes, first, a "parent" institution for young children, the bed-ridden, infirm, and strictly custodial cases. Into this parent institution should be received the new admissions for purposes of classification and preliminary training. These parent institutions are advantageously located fairly near large centers of population. The colonies, subsidiary to the parent institution, should be located in the country at distances of from twenty to fifty miles and on land suitable for cultivation. Temporary or permanent colonies may also be established on wild state lands for the purpose of clearing them and maintaining them in such condition that, from their lumber or other products, they may return to the State a maximum revenue. In these colonies are placed the men and large boys who are able or who can be taught to do the necessary work.

During the past decade this form of care has rapidly grown, so that now there is general approval of the formation of colonies for adult male feeble-minded persons in good physical condition. Such colonies, when connected with "parent" institutions, can be made self-supporting and seem to offer a most hopeful means of providing for a greatly increased number of cases at a minimum expense to the State.

Such has been the development of the care of the feeble-minded in the United States. The next step, it seems to me, in state care for mental defectives will be the development of plans for the supervised care of suitable cases, usually those who have had a period of institutional observation and training, in the communities. Many such patients can get on in their own homes, while others may be "boarded-out" in carefully selected families in rural communities, subject of course to strict supervision by officers of the parent institution. With this development the capacity of any institution would practically be limited only by the supply of suitable cases, the topography of the country, the character of the general population, and the ability of the executive, as the cost of maintenance would be reduced to the minimum and the necessity and difficulty of securing continually enlarged legislative appropriations would be eliminated.

The material growth and separate history of the older institutions and the numerous public and private schools that have been opened

in this country since 1874 are too comprehensive to be considered in detail in this article. There were 15,599 feeble-minded and epileptic persons under state care in the United States on January 1, 1904, an increase of 290 per cent over the corresponding figure (4001) for June 1, 1890. At the end of the next six years they had increased to 23,358, a growth of 50 per cent, and six years later, or on January 1, 1916, there were 34,137, an increase in that period of 46 per cent. In other words, from June 1, 1890, to January 1, 1916, the number of feeble-minded and epileptic persons under state care in the United States had risen from 4001 to 34,137, or an increase of 753 per cent.

The reports of the United States Census Bureau show that the general population of the United States increased 29 per cent from June 1, 1890, to January 1, 1904; 14 per cent in the next six years, and 10 per cent in the six years ending January 1, 1916. The increase in general population from June 1, 1890, to January 1, 1916, was 62 per cent.

To one not familiar with the facts it might seem at first sight that feeble-mindedness and epilepsy were increasing enormously in the United States in comparison with the general population. That is not the case, however, or at least these figures do not prove it to be so. What they do show is the greater proportionate amount of state care provided in recent years for a class that hitherto had been abandoned in the jails and almshouses, or had roamed the country, a menace to the community as well as to itself. Nor should this enormous increase in state care throughout the United States—753 per cent in twenty-six years—obscure the fact that the present state provision for this class in the country at large is far below what it should be. How great the lack is can be seen in the figures of January 1, 1916, where it is shown that twenty states have a higher ratio of provision than the United States as a whole, and that one of them—Massachusetts—is caring for nearly three times as many feeble-minded and epileptics per 100,000 population as are being cared for in the country at large. And yet Massachusetts acknowledges that it is doing but a small part of what it should do to give these defectives the care they need. As a matter of fact, this increase of 753 per cent in twenty-six years is really an index of the lack of appreciation on the part of former generations of the great part played by mental deficiency in dependency, crime, and delinquency.



51. A STATE PROGRAM FOR THE CARE OF THE MENTALLY DEFECTIVE<sup>1</sup>

It is now generally understood that the feeble-minded and the progeny of the feeble-minded constitute one of the great social and economic burdens of our modern civilization. We have much accurate knowledge as to the prevalence, causation, social significance, prevention, and treatment of feeble-mindedness, its influence as a source of unhappiness to the defective himself and to his family, and its bearing as a causative factor in the production of crime, prostitution, pauperism, and other complex social diseases. The literature on the subject has developed to enormous proportions. An intelligent democracy can not consistently ignore a condition involving such a vast number of persons and families and communities, so large an aggregate of suffering and misery, and so great economic cost and waste.

Nearly every state in the Union has already made a beginning in the way of a program for dealing with the mentally defective, either directly or indirectly. The development of this program in the different states varies greatly in degree and methods. Even the most advanced states have not yet formulated a plan for reaching all of the feeble-minded of the state. It is safe to say that no state has yet officially taken cognizance of 10 per cent of the mentally defective persons in that state. No state has even ascertained the number of feeble-minded in the state, their location, or the nature and expression of their defect. The great majority of these defectives receive no education or training and no adequate protection and supervision. We know that feeble-mindedness is highly hereditary, but in most states there is no legal obstacle to the marriage of the moron, the most numerous class of the feeble-minded.

There are many reasons for the lack of a formal accepted program. The problem can not be solved by a simple formula, which can be expressed in one definite piece of legislation. It is an infinitely complex problem, varied according to age, sex, degree and kind of defect, presence or absence of hereditary traits or criminal and antisocial proclivities, home conditions, etc. The idiot, imbecile, and moron present different needs and dangers. Each of these groups has different

<sup>1</sup>From *Mental Hygiene*, Vol. III, No. 4, pp. 566-574, by Walter E. Fernald, M. D., Superintendent of the Massachusetts School for the Feeble-minded.

troubles, according to age and sex. Rural, sparsely settled communities, with homogeneous racial populations, have conditions pertaining to the defective which differ from those of urban industrial centers, with cosmopolitan racial complications.

The first step in a rational program would be the beginning of a complete and continuing census of the uncared-for feeble-minded of the whole state—this would state and define the problem. Many privately conducted surveys show the feasibility of such a census. The data for this census would be furnished by physicians, clinics, court and jail officials, social workers, town officials, teachers, etc. No doubtful case should be registered. Only those persons whose mental defect has been scientifically diagnosed should be registered. The register should be highly confidential and accessible only to properly accredited persons.

This coördination of existing records would be available for social workers, school authorities, and other agencies, and would be of enormous service in the solution of the individual problems which the feeble-minded constantly present. This alone would mean a great saving in time, effort, and money. This official census would give a logical basis for intelligent management of the mental defectives of the state.

A census of the feeble-minded would make possible and desirable some provision for a central governmental authority responsible for the general supervision and assistance and control of the uncared-for feeble-minded of the state who do not need immediate institutional commitment. This state supervision of the feeble-minded should be directed by a state commission for the feeble-minded, or a properly constituted state board of health, or other similar body. Its responsible officer should be a psychiatrist, with special knowledge of mental deficiency and its many social expressions.

The local administration of this supervision could be carried out by the use of existing local public organizations, existing local private organizations and societies, or by properly qualified volunteers in each community. These peripheral workers could be made efficient by the use of suitable manuals, etc. This systematic supervision of the feeble-minded could easily be made to cover the entire state, with a local representative in each community, but all under the direction of the central authority.

Each defective could be regularly visited and kept under observation by the local visitor. The reports of these visitors, covering the life histories and the family histories of many cases, would soon constitute an invaluable treasury of information as a basis for scientific research and study in the search for practical methods of prevention. The official visitor would advise the parents as to the care and management of the defective, and would have opportunity to inform the family, the local officials, and the community generally as to the hereditary nature and the peculiar dangers of feeble-mindedness.

The registration of every feeble-minded person, and the regular visitations, especially of children of school age, would make it possible to inform the parents of the condition of the child, of the probable necessity of lifelong supervision, and of the possible need for future segregation. Suitable, tactful literature should be prepared, which could be gradually presented to the parents in a way that would have great educational value. Sooner or later, the parents would probably be willing to allow their child to be cared for and trained in an institution if he needed such care. In suitable cases parents should be allowed to have the custody of their child, with the understanding that he shall be properly cared for and protected during his life, that he shall not be allowed to become immoral or criminal, and that he shall be prevented from parenthood. Whenever the parents or friends are unwilling or incapable of performing these duties, the law should provide that he shall be forcibly placed in an institution or otherwise safeguarded. The local representatives of the central bureau would officially serve as advisers and sponsors for pupils graduated from the special school classes, for court cases under probation and observation, and for institutional inmates at home on visit or on trial.

Under this plan there would be a person in every locality familiar with the opportunities for mental examination and methods of permanent commitment. The extra-institutional supervision and observation of cases in their homes would do away with the necessity of institutional care of many persons who would otherwise have to go to an institution, thus reducing the expense of buildings and maintenance.

There should be legal provision for the commitment of uncared-for defective persons to the permanent custody of the central authority. This commitment should formally recognize the actual mental age and degree of responsibility of the defective person so committed. The

legal status of a defective should be that of a normal child with a mental age of eight, nine, or ten years. The permanent eight- or nine- or ten-year mentality of the defective should be legally acknowledged.

The extra-institutional supervision should include cases dismissed from institutions, so that the defective who has spent many years in an institution would not be thrown out into the world with a freedom which he does not know how to utilize. In these cases, the supervision would constitute a permanent parole which would be most effective. This provision would enable the defective to be returned to the institution if he did not properly conduct himself in the community. Such provision for registration of the feeble-minded and for extra-institutional supervision would insure that those defectives who most need institutional training and protection would be sent to the institutions, and that those who can live safely and happily in the community would be allowed to do so.

The keynote of a practical program for the management of mental defectiveness is to be found in the fact, which seems to have been proved, that those defectives whose defects are recognized while they are young children, and who receive proper care and training during their childhood, are, as a rule, not especially troublesome after they have been safely guided through the period of early adolescence.

Every child automatically comes under the control of the school authorities between the ages of six and fourteen. Every case of mental defect can be easily recognized during this period. Present methods of health examination of school children could easily be extended so as to insure and require a mental examination of every child obviously retarded in school accomplishment. It would not be necessary to give a mental examination to all the school children. It would be sufficient to examine only those children who are three or four or more years retarded in school work—perhaps 2 or 3 per cent of the primary-school population.

In the large cities, the mental examinations could be made by special examiners and at mental clinics. The rapid development of outpatient mental clinics all over the country will soon furnish facilities for such examinations in all the large cities. Rural communities and small towns could be served by a traveling mental clinic, as a part of the state government. This clinical group, or even a single clinician, could examine the presumably defective children over a very large



area. A visit to each small town once each year would be sufficient. Every institutional school for the feeble-minded should conduct outpatient mental clinics at the institution and in the various cities and towns served by the school. At the time of the mental examination, the parents should be informed as to the mental condition of the child and of his need for special training and protection.

Suitable manuals should be prepared by the state board of education, which could be placed in the hands of every teacher, especially in the rural schools, describing the methods of training and management that should be applied to these cases. It should be recognized that the defective child is entitled, even more than a normal child, to education according to his needs and capacity. The defective children who cannot be taught in the regular schools should be referred to the special classes or the institutional schools.

Cities and towns of over five thousand population are likely to have groups of at least ten or more defective children. Such communities should be required to establish special classes for defective children. The proper authorities should decide upon the courses of study and the equipment of school materials which are necessary for these special school classes. Provision should be made in the normal schools for training teachers of defective children. Every normal training school for teachers should be required to give suitable instruction to teachers to enable them to recognize probable cases of mental defect and to give them a general idea as to the training and discipline of such children. The state board of education or some other branch of the state government should prepare simple manuals of facts for the use of the parents of feeble-minded children. This literature should be prepared in series, with special articles for young boys, for young girls, for older boys, for older girls, and for other groups, and should kindly and tactfully instruct the parents as to the limitations of these children in the way of scholastic acquirements, and emphasize the importance of the development of habits of obedience and industry and the necessity of protection against evil influences and companions during the formative period, and of the possible need of institutional care in the future.

The great majority of mental defectives are of the moron group. If the plan suggested for the early recognition and the intelligent education and training of the moron in public schools and at home is

carried out, many of this class can be safely cared for at home. We have begun to recognize the fact that there are good morons and bad morons, and that it is often possible in early life to recognize the moron with antisocial and criminalistic tendencies, who will probably need institutional care. Morons from families unable properly to protect and control their children will need institutional training and care. The fact should be emphasized that the neglected moron is the defective who makes trouble later in life, and that during the formative period of his life he should receive proper care and training either at home, with the special help of the regular teacher or the special class, or in an institutional school.

The special public-school classes also serve as clearing-houses for the recognition of defective children who are markedly antisocial and immoral, and who need permanent institutional care. It is an easy step from the special class to the institution. The children who graduate from the special school classes should have the benefit of follow-up or after-care assistance and help.

In the majority of states, the only provision for mental defectives is furnished by an institutional school for the feeble-minded, providing care and protection for a limited number of idiots and imbeciles, education and industrial training for morons, with permanent segregation for a certain number of defectives, and with special emphasis upon the lifelong segregation of feeble-minded women of the hereditary group. It was formerly believed that it was possible and desirable to provide institutional care for practically all the mental defectives of the state. This was before the actual extent of the problem was known and its cost computed, and before the difficulty of securing the commitment to an institution of many of these cases was realized. In practice it has been found very difficult to insure the lifelong segregation of the average moron. The courts are as ready to release the defective as they are to commit him in the first place. However proper and desirable it may be in theory to insure the lifelong institutional segregation of large numbers of the moron class, it is a fact that there is a deep-seated prejudice on the part of lawyers, judges, and legislators towards assuming in advance that every moron will necessarily and certainly misbehave to such an extent that he should be deprived of his liberty. That such misgivings are well-founded is apparently shown by the studies made of discharged patients at Rome

and Waverley. At Waverley, a careful study of the discharges for twenty-five years showed that a very small proportion of the discharged male morons had committed crimes, or had married, or had become parents, or had failed to support themselves, or had been bad citizens.

It has been fairly well demonstrated that the average male moron, without naturally vicious tendencies, who has been properly trained in habits of obedience and industry, and who is protected from temptation and evil associations during his childhood, can be safely returned to the community when he has passed early adolescence, if his family are able to look after him and give him proper supervision. A very much larger proportion of these trained male defectives would be suitable for community life if the above-described extra-institutional control and supervision could be provided.

The average citizen is not yet convinced that he should be taxed to support permanently an individual who is capable of 30 or 50 or 70 per cent of normal economic efficiency, on the mere theory that he is more likely than a normal individual to become a social problem. Thousands of morons never give any trouble in the community.

The after-care studies of the female morons who have received training in the institutions were not so favorable, but many of these, too, led moral and harmless and useful lives after their return to the community. The study of discharged female cases at Waverley showed a surprisingly small number who became mothers or who married. While it is true that defectives with undesirable habits and tendencies are not easily controlled, it is equally true that defectives who are obedient and moral and industrious are apt to continue these traits permanently. It is as difficult for them to unlearn as it was to learn. Those defectives whose tendencies are such as to make them undesirable members of the community should not be allowed their liberty, but should be permanently segregated in institutions. No other class of human beings so surely avenge neglect in their childhood, socially, morally, economically, and eugenically.

Defectives who develop markedly immoral or criminalistic tendencies in the institutional schools for the feeble-minded should not be retained permanently in the institutions devoted to the care and training of the average defective, for the feeble-minded are most suggestible and easily influenced and should be protected from the com-

panionship and influence of the defective with criminalistic tendencies. These "bad" defectives should be committed to and cared for in an institution especially for that type, where the discipline could be made more rigid, and permanent detention more certain.

If 25 per cent or more of the inmates of our penal and correctional institutions are feeble-minded, as has been shown, it should be required that a mental examination should be made of all inmates of such institutions, and that those criminals who are found to be mentally defective should not be automatically discharged, to return to the community, but should be committed to a special institution for defective delinquents, and should be permanently segregated, and discharged only under the strictest sort of supervised parole. Provision should be made for the mental examination of all persons accused of crime when there is any suspicion as to the mentality of the accused.

There is no doubt that every state in the Union needs greatly increased institutional facilities for the care of the feeble-minded, not only as a matter of justice and fairness to the feeble-minded themselves and to their families, but as an investment that would repay the cost many times over.

There is no panacea for feeble-mindedness. There will always be mentally defective persons in the population of every state and country. All of our experience in dealing with the feeble-minded indicates that if we are adequately to manage the individual defective, we must recognize his condition while he is a child, protect him from evil influences, train and educate him according to his capacity, make him industrially efficient, teach him to acquire correct habits of living, and, when he has reached adult life, continue to give him the friendly help and guidance he needs. These advantages should be accessible to every feeble-minded person in the state. Most important of all, so far as possible, the hereditary class of defectives must not be allowed to perpetuate their decadent stock. The program for meeting the needs of these highly varied and heterogeneous groups must be as flexible and complex as the problem itself. It will be modified and developed as our knowledge and experience increase.

To sum up, the program now possible includes the mental examination of backward school children; the mental clinic; the traveling clinic; the special class; directed training of individual defectives



in country schools; instruction of parents of defective children; after-care of special-class pupils; special training of teachers in normal schools; census and registration of the feeble-minded; extra-institutional supervision of all uncared-for defectives in the community; selection of the defectives who most need segregation for institutional care; increased institutional facilities; parole for suitable institutionally-trained adult defectives; permanent segregation for those who need segregation; mental examinations of persons accused of crime and of all inmates of penal institutions; and long-continued segregation of defective delinquents in special institutions.

The above program would require teamwork on the part of psychiatrists, psychologists, teachers, normal schools, parents, social workers, institution officials, parole officers, court officials, prison officers, etc. There would be a highly centralized formulation of plans and methods and of authority, but much of the real work would be done in the local community. The degree of development of the program in a given state would depend upon existing knowledge and public sentiment on the subject in that state and this in turn would be measured by the wisdom and experience of the responsible officials. Nearly every suggestion in the proposed program is already being followed in some state. No one state has anything like a complete program.

## CHAPTER XVI

### MENTAL DISORDER OR "INSANITY"

#### 52. SERIOUS CASES OF MENTAL DISORDER OR SO-CALLED "INSANITY"<sup>1</sup>

The cases of mental disease in which the symptoms become marked are characterized by the laity as instances of insanity. It should be thoroughly understood that from the medical standpoint insanity is a useless term. However, let us briefly review the types of mental disease with symptoms of such a nature that it frequently becomes necessary to secure medical supervision in an institution. The cases may be divided into two major groups: (A) those cases in which a definite recognizable organic disorder exists, from which disorder the mental symptoms arise; and (B) those cases in which no such organic disorder has been demonstrated, and which we are prone to consider as a group of functional psychoses, that is, not organic disorders.

A. The organic group consists of cases in which there is either:

1. A pathological process having its primary seat in the central nervous system, as:
  - a. General paresis.
  - b. Brain tumor.
  - c. Cerebral arteriosclerosis.
  - d. Senile dementia.
  - e. Other degenerative lesions of the brain.
  - f. Multiple sclerosis and the like.
  - g. Injury to the brain as from a blow on the head, a gunshot wound, etc.
2. An injury of the brain secondary to disease in the body, such as:
  - a. Febrile delirium.
  - b. Uremic toxemia.

<sup>1</sup> By Harry C. Solomon, M.D., Chief of Therapeutic Research in the Boston Psychopathic Hospital and Instructor in Psychiatry and Neuropathology in the Harvard Medical School. From *The Commonwealth*, Vol. IX, No. 2, pp. 42-44. Massachusetts Department of Public Health.

- c. Injury due to disorders of the endocrin system, as exophthalmic goiter, myxœdema.
3. An injury of the brain due to exogenous poison taken into the body, as alcohol, drugs, metallic poisons (lead, mercury).

The consideration of the diseases of this group takes in the methods in general use in internal medicine. It is a matter of treatment of the underlying disease, and the results will depend largely upon whether or not the disease from which the patient is suffering is amenable to medical or surgical treatment, or whether the body is able to cope with the poisons if no more are added to the system. Thus the treatment of mental disease arising from brain tumor is operation. The treatment of febrile delirium is the treatment of the disease which is causing the fever and delirium. The treatment of general paresis is the treatment of a syphilitic infection, and the treatment of alcohol, drugs, and other exogenous poisons is the discontinuance of the poisons and supportive treatment.

From the standpoint of prophylaxis this organic group offers very little theoretical difficulty. Some of the conditions, such as brain tumor, senile dementia, and the other degenerative lesions, we are perfectly helpless to prevent. On the other hand, the prevention or adequate treatment of acquired syphilis should prevent general paresis. Abstinence will prevent the diseases arising from alcohol and drugs. Hygiene will eliminate the possibility of metallic poisons, and the reduction of infections will diminish the resultant mental symptoms *pari passu*.

B. The second of our major divisions of mental disorder is that in which no definite organic disease can be demonstrated as the cause of the mental symptoms. These cases must be considered at present from the psychological standpoint.

From a practical standpoint we may think of the functional disorders under two headings: (1) those in which recovery without defect occurs, and (2) those in which there is a tendency to chronicity or deterioration, or improvement with defect.

The cases with good prognosis are in a majority of instances cases in which the disorder is chiefly in the emotional field, and receive, as a rule, the medical diagnosis of manic-depressive psychosis or involuntional melancholia. While the symptoms may be exceedingly

marked and disturbing, the prognosis is, on the whole, good; in fact, complete recovery is the rule in cases of manic-depressive psychosis. Although there is a tendency for a recurrence of the disorder, there is the same good prognosis as to recovery. The duration of an attack varies from a few days to eighteen months, but, on the average, is a matter of five to ten months. The outlook of those suffering from this form of disease is, therefore, often better than that of some patients whose mental symptoms are very much milder, but whose incapacity may last for a much greater period, and who may, therefore, suffer more and be less efficient as units in the social structure.

The cases of involutional melancholia are apt to last longer than those of manic-depressive psychosis, and the prognosis is not as satisfactory, as some of these patients do not recover. In the majority of cases, however, the prognosis is good.

The second large group of functional psychoses are those which have a tendency to deterioration and chronicity, and are usually considered under the medical diagnosis of dementia præcox. These cases are characterized by dissociation or splitting of the psyche, and tend to show disorder of thought (delusions, hallucinations). Beginning, on the average, at the adolescent period and having a bad prognosis, these cases are the saddest and most important of the mental disorders. They likewise represent a high proportion of the cases which enter the State hospitals for mental diseases.

Finally, mention should be made of paranoia, which is a condition characterized by the development of a delusional system which makes the patient unfit for ordinary social intercourse and which progresses slowly and insidiously. This condition represents the progressive development of a twist of the mind rather than a distinct mental disease.

As the so-called functional psychoses have no known anatomical basis, they must be considered on a psychological plane. This does not mean that continued search for a physical basis should not be made, but rather that from a practical standpoint they must be studied and treated from a purely mental point of view. While heredity and constitutional factors have a bearing upon the development of these psychoses, they are so intangible that they cannot be considered of any great practical application. Mental factors, life experiences are the elements that must be studied in these cases. Prophylaxis should be directed toward the early development of the individual. Every



case should be considered on its own merits and studied from the standpoint of the individual himself, his personal endowments, the past experiences and difficulties he has encountered.

### 53. MENTAL DISORDERS REINFORCING OR SIMULATING PHYSICAL INVALIDISM, "NEURASTHENIA," "HYSTERIA," AND "NERVOUSNESS"<sup>1</sup>

There are certain diseases which are dreaded by every one largely because they threaten life,—such diseases as tuberculosis, cancer, heart disease, pneumonia, etc. Contrasted with these are diseases whose main and outstanding threat is to happiness and efficiency since life itself is not shortened nor threatened by them. These diseases are lumped together in the lay mind under the term "nervousness," which like many another widespread term has no real scientific standing. The term "psychoneurosis" is used by medical men to include this group of diseases, and the term itself implies that here are nervous and mental disorders in which no alteration can be found in any part of the nervous system. In this particular, these conditions differ from such diseases as locomotor ataxia, cerebral hemorrhage, and tumor of the brain, because there are marked changes in the structure of the nervous system in the latter troubles. One might compare the psychoneuroses to a watch which needed oiling or cleaning, or merely a winding up, as against one in which a vital part was broken.

These psychoneuroses are divided by physicians into three kinds, neurasthenia, psychasthenia, and hysteria. Without going too extensively into the symptoms of each of these three groups of diseases, it may be stated that fundamentally neurasthenia is marked by an increased liability to fatigue. The tired feeling that comes on with a minimum of exertion, worse on arising than on going to bed, is its distinguishing mark. Sleep, which should remove the fatigue of the day, does not; the victim takes half of his day to get going; and at night, when he should have the delicious drowsiness of bedtime, he is wideawake and disinclined to go to bed or sleep. This fatigue enters

<sup>1</sup>By Abraham Myerson, M.D., Assistant Professor of Neurology in the Tufts Medical School and Consulting Neurologist of the Boston Psychopathic Hospital. From *The Commonwealth*, Vol. IX, No. 2, pp. 47-52. Massachusetts Department of Public Health.

into all functions of the mind and body. Fatigue of mind brings about lack of concentration, an inattention, and this brings about an inefficiency that worries the patient beyond words as portending a mental breakdown. Fatigue of purpose brings a listlessness of effort, a shirking of the strenuous, the more distressing because the victim is often enough an idealist with overlofty purposes. Fatigue of mood is marked by depression of a mild kind, a liability to worry, a lack of enthusiasm for those one lives with or for the things formerly held dearest. And, finally, the fatigue is often marked by a lack of control over the emotional expression so that anger blazes forth more easily over trifles, and the tears come upon even a slight vexation. To be neurasthenic is to magnify the pins and pricks of life into calamities, and to be the victim of an abnormal state that is neither health nor disease.

In addition to this central group of symptoms are (1) pains and aches of all kinds which are really more often disagreeable feelings rather than true pains, (2) changes in the appetite and in the condition of the bowels, (3) insomnia or disturbed restless slumber. We look to the bed as a refuge from our troubles, as a sanctuary wherein is rebuilt our strength. We may link work and sleep as the two complementary functions necessary for happiness. If sleep is disturbed, so is work, and with that our purposes are threatened. So disturbed sleep has not only its bodily effects but has marked results in the effect on happiness.

Fundamental in the symptoms of neurasthenia is fear. This fear takes two main forms: first, the worry over the life situation in general, fear which extends to all the comings, goings, and doings of life, a form of fear-thought which is both a cause of neurasthenia and a symptom; and, second, a special form of worry called hypochondriacism, which essentially is fear about one's own health. The hypochondriac magnifies every flutter of his heart into heart disease, every stitch in his side into pleurisy, every cough into tuberculosis, every pain in the abdomen into cancer of the stomach, and every headache into the possibility of brain tumor or insanity.

Such are a few of the main symptoms of neurasthenia. It may range from mere fatigue, pain, and insomnia to a profound loss of energy, with fear, anxiety, and almost complete prostration.

By the term psychasthenia is understood a group of conditions in which the bodily symptoms, as fatigue, sleeplessness, loss of appetite,

etc., are either not so marked as in neurasthenia or else are overshadowed by other more distinctly mental symptoms. These mental symptoms are three main types: first, a tendency to recurring fears of all kinds and descriptions, fears which have received formidable Greek names but which are fears of open places, of closed places, of being alone, of dirt, of disease, of all kinds and manners of situations. Second, there is a tendency to obsessive ideas and doubts which persist in coming against the will of the patient. In extreme psychasthenia the difficulty of making up the mind, of deciding, becomes so great that a person may suffer an agony of internal debate about crossing the street, putting on the clothing, eating the meals, in fact about every detail of acting and thinking. Third, there is a group of impulsions and habits. The impulsions are sometimes absurd, as when a person feels compelled to step over every crack, to touch the posts along the journey, or to take three steps at a time. The habits range from the desire to bite one's nails to the quick, which is so common in children and which persists in the psychasthenic adult, to the odd grimaces, facial contortions, blinking of the eyes, and crackling of the joints of the inveterate "tickeur."

The third great psychoneurosis is hysteria, which almost defies a short account. I shall very briefly mention the main types of symptoms. In the first place there is a hysteric temperament and an emotional instability, with a tendency to prolonged and freakish manifestations. Fundamental in the personality of the hysteric is this unstable emotionality, which is, however, secondary to an egotistic, easily wounded nature, craving sympathy and respect, admiration and achievement, but unable legitimately to earn them. Next is a group of symptoms, the so-called paralyses, which may involve any part of the body and persist in certain cases for years. These paralyses yield remarkably to any energizing influence like good fortune, the compelling personality of a physician, clergyman, or healer (the miracle cure), or a serious danger.

Comparable to the paralyses are queer losses in sensation which sometimes take the form of hysterical blindness, of deafness, and which like the paralyses yield at times in bizarre manner to bizarre influences. In the days of witch hunting these anæsthesias were called stigmata and considered the diabolical marks of the witch. Especially striking in hysteria are the curious changes in consciousness that take



place. These range from what seem to be fainting spells to trances sometimes lasting for a long time. These trances have been used by mystics of all kinds and play an important part in the history of mankind. In olden days the Delphian oracles were people who had the power of throwing themselves into these hysteric states, and to-day their descendants in hysteria are the crystal gazers, the mediums, the automatic writers, that by a mixture of hysteria and faking deceive the simple and credulous.

We may discuss as causative of these three conditions certain fundamental situations. We must start with the statement that mind and body are one, that what happens to one physically may change the whole trend of thinking, feeling, and acting, and what happens to one mentally, either as an idea or emotion, may change the workings of the body, disturbing sleep, digestion, and the coördinated action of the great organs of the body. All mankind knows this in the sense that all language crystallizes these beliefs, but it is rarely taken into account either by medical men or the laity.

Thus we may establish as causative of these states certain physical situations. They may follow exhausting illness, surgical operation, difficult childbirth, and in any situation which drains the energy and resources of the organism. Such conditions are common after influenza, pneumonia, and after those surgical operations where the patient is allowed too quickly to get back to his duties. One of the crying needs of every community is an institution where people may rest after an exhausting illness.

Just as surely as physical situations may cause neurasthenia, psychasthenia, or hysteria, so mental situations may cause them, and, in fact, are undoubtedly more important in the majority of cases in their genesis. There are situations in which fear arises as a sudden and overpowering emotion, such as the battlefield or in the perilous places in industry or on the streets of the cities, and occasionally even in the safest and coziest nook of the home. The traumatic neurosis, so called, has its origin, at least in part, in the de-energizing result of fear, and in the persistence of the emotion for many and many a day to come. For fear may act as a most potent drug, and its physical effects range from the cold chill, the rapid heart, the sharp, painful respiration, and the all-gone feeling in the abdomen, to the most complete unconsciousness. Indeed, all emotions are as much



physical as mental, and he is a shallow thinker and a poor physician who dismisses the emotional state of the patient as unworthy his most careful and detailed attention.

But in addition to these sudden overpowering emotional states there are more constant mental situations of a disagreeable kind. Whether there is a subconsciousness or not, this can be affirmed—that every human being is a pot boiling with desires, passions, lusts, wishes, purposes, ideas, and emotions, some of which he clearly recognizes and clearly admits, and some of which he does not clearly recognize and which he would deny. These desires, passions, purposes, etc., are not in harmony one with another; they are often irreconcilable, and one has to be smothered for the sake of the other. Thus a sex feeling that is not legitimate, an illicit forbidden love, has to be conquered for the sake of the purpose to be religious or good, or the desire to be respected. So one may struggle against a hatred for a person whom one should love,—a husband, a wife, an invalid parent, or child whose care is a burden,—and one refuses to recognize that there is such a struggle. So one may seek to suppress jealousy, envy of the nearest and dearest; soul-stirring, forbidden passions; secret revolt against morality and law which may (and often does) rage in the most puritanical breast.

In the theory of the subconscious these undesired thoughts, feelings, passions, wishes, are repressed and pushed into the innermost recesses of the being, out of the light of the conscious personality, but, nevertheless, acting on the personality, distorting it, wearying it.

However this may be, there is struggle, conflict in every human breast and especially difficult and undecided struggles in the case of the psychoneurotic. Literally, secretly or otherwise he is a house divided against himself, de-energized by fear, disgust, revolt, and conflict. It is in these conflicts and their results that the major part of neurasthenia, psychasthenia, and hysteria arises, in disgust, dissatisfaction, impotent revolt, and the splitting of the personality that comes when one part of us cannot live harmoniously with other parts.

The task of the physician in these cases is first of all to diagnose the situation, to make sure that he is not dealing with organic disease masked by a psychoneurosis. Thus it must be emphasized as fundamental that in no case should the diagnosis be made until organic situations are excluded.

Second, the physician must then discover the physical factors out of which the condition has, in part, its origin: in bad habits of eating or sleeping, in bad habits of work and play, in poorly conducted organic habits, such as the care of the bowels. He must take whatever steps seem necessary to cure loss of appetite, disturbed sleep, and must prescribe medicines, fresh air, massage, and exercise according to the physical situation.

Third, he must do far more than these things. He must probe into the life of the patient and discover the mental causes, the dissatisfactions, the revolts, the disgusts, the forbidden desires, and the dissociations and conflicts that are back of the symptoms. He must harmonize the personality of the patient, must reconcile the one phase to another, and bring about a philosophy of life, either of renunciation or achievement, that will meet the situation. He must teach control of emotions and inculcate new purposes and ambitions, or restore the old ones if these have disappeared. His is a task formerly relegated to priest and pastor, to teacher and philosopher, but he must be all of these things when he deals with the psychoneuroses, and from his capacity for understanding human nature, and from his ability to probe successfully into the dark, fiercely guarded corners of the human mind, will come the ability to deal with these conditions.

#### 54. THE INSANE IN INSTITUTIONS<sup>1</sup>

*Question of the increase of insanity.* The ratio of total insane enumerated in 1880, when the enumeration is believed to have been more complete than at any other census, was 183.3 per 100,000 of the total population. In 1910 the insane in hospitals alone represented a ratio of 204.3 per 100,000 population. As compared with the total population, therefore, the number of insane in institutions in 1910 was relatively greater than the total number of insane enumerated in 1880.

*Insanity among negroes and foreign-born whites.* The 187,791 insane in hospitals enumerated on January 1, 1910, included 12,910 negroes, and the 60,769 insane admitted to hospitals in the year 1910,

<sup>1</sup>From "The Insane and Feeble-Minded in Institutions, 1910," pp. 13, 34, 36, 53, 55, 56, 59, 61, 75, 76. Department of Commerce, Bureau of the Census. Government Printing Office, Washington, 1914.

included 4384 negroes. The negroes thus constituted about 6.9 per cent of the insane enumerated on January 1, and 7.2 per cent of the insane admitted during the year, while of the total population of the United States they constituted a little over 10 per cent. Taking the country as a whole, therefore, the negroes in proportion to their numbers have fewer representatives in insane asylums than the whites.

For negroes the number of admissions per 100,000 population was 44.6; for the whites it was 68.7. Equally marked is the contrast as regards the ratio of inmates present on January 1: 131.4 per 100,000 for negroes as compared with 213.2 per 100,000 for whites.

A comparison between the negroes and foreign-born whites as regards the ratio of admissions to hospitals for the insane is presented, by geographic divisions, in the following table:

DIVISION	ADMITTED TO HOSPITALS IN 1910 PER 100,000 POPULATION OF SAME RACE AND NATIVITY		
	Native white	Foreign- born white	Negro
United States . . . . .	57.9	116.3	44.6
New England . . . . .	93.6	134.4	153.8
Middle Atlantic . . . . .	61.8	112.6	105.1
East North Central . . . . .	61.9	109.7	101.1
West North Central . . . . .	52.1	111.0	107.1
South Atlantic . . . . .	56.8	121.1	46.2
East South Central . . . . .	46.5	97.9	35.8
West South Central . . . . .	36.4	65.9	17.3
Mountain . . . . .	48.3	117.9	135.1
Pacific . . . . .	60.7	152.6	195.2

In none of the northern or southern divisions, except New England, is the ratio of admissions to hospitals for the insane as high for negroes as it is for the foreign-born whites. The ratio for the foreign-born whites is very materially affected by the peculiar age composition of that class, comprising as it does an exceptionally large proportion of adults and small proportion of children. This factor makes the ratio for this class higher than it would be if the age distribution was similar to that of either the negroes or the native whites. When the ratios are compared by age groups it will be found that in every age

group, with one exception, the ratio for northern negroes is higher than that for the foreign-born whites. The exception occurs in the age group fifty-five to fifty-nine years, in which for some reason—possibly on account of erroneous age returns—the ratio for negroes is comparatively low.

*General paralysis and alcoholic psychosis.* On the schedule for reporting admissions was a question asking whether the patient was suffering from either general paralysis or alcoholic psychosis. General paralysis of the insane is indicative of syphilis, being one form of syphilitic brain diseases, while alcoholic psychosis is brought on by the excessive use of alcoholic drinks. The instructions for filling out the schedules contained the following definition regarding the use of the term "alcoholic psychosis":

By "alcoholic psychosis" is meant one of the mental diseases which, by their characteristic symptoms, are known to be the direct result of alcoholic intemperance. Cases of mental disease in which alcoholic intemperance is only one of the etiological factors and cases merely associated with alcoholic intemperance should not be reported under alcoholic psychosis.

Of the 60,769 insane admitted to hospitals in 1910, 6122, or 10.1 per cent of the total number, were suffering from alcoholic psychosis, and 3884, or 6.4 per cent, from general paralysis. In the aggregate, 16.8 per cent, or about one-sixth, of the insane admitted to hospitals in 1910 were victims of one or the other of these diseases.

The number of cases of general paralysis and alcoholic psychosis in the admissions to hospitals in 1910 was equivalent to a ratio of 11.1 per 100,000 population; the number of other cases of insanity represented a ratio of 55 per 100,000. Of course, the sum of these two ratios is the ratio of total admissions to the total population, 66.1 per 100,000.

*Sex.* As would probably be anticipated, the figures show that alcoholic psychosis and general paralysis are much more frequent causes of insanity for males than for females. Of the 34,116 males admitted to hospitals for the insane in 1910, 2989, or 8.8 per cent, had general paralysis; and 5220, or 15.3 per cent, had alcoholic psychosis. Of the 26,653 females admitted, 895, or 3.4 per cent, had general paralysis; and 902, or 3.4 per cent, had alcoholic psychosis.<sup>1</sup>

<sup>1</sup>A census of the insane in the United States for the year 1922 is being compiled by the Bureau of the Census as this volume goes to press.—Ed.



### 55. A STUDY OF HEREDITY IN INSANITY IN THE LIGHT OF THE MENDELIAN THEORY<sup>1</sup>

From the earliest times physicians have recorded observations of the transmission of nervous diseases by heredity.

In modern times the accumulation of large amounts of material in the shape of clinical statistics published by hospitals has established beyond question the fact that heredity plays an essential part in the etiology of certain neuropathic conditions. Table I shows some statistical figures selected at random.

TABLE I

	TOTAL NUMBER OF CASES WITH KNOWN HISTORIES	CASES SHOWING HEREDITY	
		Number	Per cent
Report of New York State Commission in Lunacy for the year ending September 30, 1909 . . .	2467	1259	51.0
Report of Michigan Asylum for the Insane at Kalamazoo for the years 1859-1908 . . . . .	8531	4800	56.3
Report of Rhode Island State Hospital for the Insane for the year ending December 31, 1910 . .	250	137	54.8

Figures such as these are for all forms of insanity, including those which occur on a basis of exogenous causes; yet even as they are, their significance becomes quite apparent when they are compared with figures representing the frequency of a neuropathic family history among normal subjects: 3 per cent according to Jost, 7.5 per cent according to Näcke.<sup>2</sup>

Aside from statistical data, studies of individual cases have revealed, on the one hand, the facts of atavistic and collateral heredity, and on the other hand, the fact of the frequent failure of transmission of neuropathic traits. In other words, there seemed to be no regularity in the working of heredity, and the generally accepted conclusion on the subject has been well voiced by Kraepelin: "We must therefore regard the statistics of heredity in insanity merely as facts of experi-

<sup>1</sup> By A. J. Rosanoff, M. D., and Florence I. Orr, B. S., *Bulletin No. 5*, pp. 221-222, 225-228. Eugenics Record Office, Cold Spring Harbor, New York, October, 1911.

<sup>2</sup> Cited by Kraepelin, *Psychiatrie* (7th ed.), Vol. I, p. 116.

ence without finding in them the expression of a 'law' which should hold in every case."<sup>1</sup>

In recent years, however, it has been shown that human heredity, at least as far as certain traits are concerned, is subject to general biological laws. Special mention may be made of color of eyes,<sup>2</sup> color of hair,<sup>3</sup> form of hair,<sup>4</sup> brachydactyly,<sup>5</sup> some forms of cataract,<sup>6</sup> and retinitis pigmentosa,<sup>7</sup> as human traits which have been shown to be transmitted from generation to generation in accordance with the Mendelian theory.

As regards insanity and allied neuropathic conditions, the facts to which we have already referred, namely, the facts of atavistic and collateral heredity, direct heredity, and the frequent failure of transmission seem to point plainly to alternative inheritance. This suggests the likelihood of a mechanism of inheritance according with the Mendelian theory, and the present study has been undertaken with a view to determining whether indeed the neuropathic constitution is transmitted in the manner of a Mendelian trait. . . .

### *Description of Material*

The total amount of psychiatric material which is available at this hospital<sup>8</sup> is very large. We found, however, that for various reasons, to be spoken of presently, the greater part of the material could not be utilized in our study.

In selecting cases our aim has been to exclude all those forms of insanity in the causation of which exogenous factors, such as traumata, alcoholism, and syphilis, are known to play an essential part; and we have also systematically excluded psychoses which occur upon a basis of organic cerebral affections, such as tumors, arteriosclerosis, apoplexy, and the like. We are not inclined to dispute the possible influence of heredity in these conditions; we have excluded them

<sup>1</sup> Kraepelin, *Psychiatrie* (7th ed.), Vol. I, p. 116.

<sup>2</sup> Davenport, *Science* (N. S.), Vol. XXVI, November 1, 1907; Hurst, *Proceedings of the Royal Society*, Vol. LXXX B., 1908.

<sup>3</sup> Davenport, *The American Naturalist*, Vol. XLIII, April, 1909.

<sup>4</sup> Ibid. Vol. XLII, May, 1908.

<sup>5</sup> Farabee, *Papers of Peabody Museum*, Vol. III, 1905.

<sup>6</sup> Nettleship, *Report of the Royal London Ophthalmic Hospital*, Vol. XVI, 1905.

<sup>7</sup> Ibid. Vol. XVII, Parts I-III.

<sup>8</sup> Kings Park State Hospital, Kings Park, New York.

merely for the purpose of simplifying our problem by avoiding the necessity of dealing with a complicating factor in the shape of an essential exogenous cause. Moreover there seemed to be reason to believe that the so-called functional psychoses and neuroses are more closely related to each other than to the conditions which we have sought to exclude; and since our material had to be largely massed together for statistical treatment it was important that it should be as homogeneous as possible.

More than half the patients at this hospital are either themselves foreign born or the children of foreign-born parents; and among those who were born in this country of American parents there are many whose homes are in distant states; thus but a small proportion remained whose families had for two or three generations resided in this country and were accessible to investigation.

Other difficulties in obtaining our data were due to the ignorance of some of our informants or to their reluctance or refusal to co-operate in the investigation; and in many cases the investigation had to be discontinued and the data already collected had to be discarded owing to incompleteness.

In the actual analysis of the data collected in the course of our investigation the problem in each case was to distinguish, on the basis of the information obtained by questioning the relatives, neuropathic states from the normal state and in the case of a neuropathic state to identify, if possible, the special variety. Such diagnosis often enough presents great difficulty when there is opportunity for direct observation, but when it has to be based upon observations of untrained informants related from memory the difficulty is, of course, greatly increased and with it the chance of error. We have endeavored to reduce the amount of error from this source by interviewing personally as many as possible of the nearest relatives of the patients whose pedigrees were being investigated, and by the practice of tracing almost all the families not farther than to the generation of grandparents, for the farther back our inquiries extended the more scant and more vague was the information which we were able to obtain.

To the difficulty of diagnosis is added the further difficulty which results from the impossibility in the present state of psychiatry of precisely delimiting the conception of the neuropathic constitution. To this matter we shall have occasion to revert in subsequent sections.

In the analysis of data it was often necessary in the case of a normal subject to determine whether the case was one of duplex or of simplex inheritance, it having appeared early in the course of our study that the normal condition was dominant over the neuropathic condition. The fact of simplex inheritance we were able in some cases to establish on the basis of the existence of neuropathic manifestations in the ancestors or collateral relatives of the subject; in other cases this evidence was lacking as our information did not extend to the more remote generations, so that it was necessary to assume the fact of simplex inheritance on the basis of the existence of neuropathic offspring: the two types of material have been treated separately. On the other hand, the fact of duplex inheritance was in every case based upon the absence of neuropathic manifestations in ancestors and collateral relatives, as far as known, as well as in the offspring; but inasmuch as in scarcely any case was the family history traced farther back than the third generation it is clear that the possibility of simplex inheritance was in no case positively excluded; we have here, therefore, another source of error which, fortunately, is slight, and affects the least important part of our material, namely, the cases of matings from which no neuropathic offspring have resulted.

On the whole, no pretension is made here of total elimination of error; but we believe that whatever errors remain they are not sufficient to invalidate the material as a basis for our study.

### *Statistical Analysis of Material*

In the Preliminary Report, *Bulletin No. 3*, Eugenics Record Office, which was based upon an analysis of the pedigrees of twelve families, it was shown that the neuropathic constitution is transmitted by heredity probably in the manner of a trait which is, in the Mendelian sense, recessive to the normal condition.

Sixty other families have since been investigated; the entire material now includes the pedigrees of seventy-two families, representing 206 different matings, with a total of 1097 offspring. In Table II this mass of data has been arranged so as to show the proportions of normal and neuropathic offspring which resulted from the various types of mating alongside of figures representing theoretical expectation according to the Mendelian theory.



TABLE II

TYPES OF MATING	Number of Matings	Total Number of Offspring	Died in Childhood	Data Unascertained	NEUROPATHIC OFFSPRING		NORMAL OFFSPRING	
					Actual Findings	Theoretical Expectation	Actual Findings	Theoretical Expectation
<i>a.</i> $RR \times RR \infty RR$ . . . .	17	75	11	0	54	64	10	0
<i>b.</i> $DR \times RR \infty DR + RR$ . .	37	216	46	1	84	$84\frac{1}{2}$	85	$84\frac{1}{2}$
<i>b</i> <sub>1</sub> . $DR \times RR \infty DR + RR$ . .	56	284	20	4	106	130	154	130
<i>c.</i> $DD \times RR \infty DR$ . . . .	14	61	13	3	0	0	45	45
<i>d.</i> $DR \times DR \infty DD + 2DR + RR$	7	34	5	0	8	$7\frac{1}{2}$	21	$21\frac{3}{4}$
<i>d</i> <sub>1</sub> . $DR \times DR \infty DD + 2DR + RR$	55	335	39	3	99	$73\frac{1}{2}$	194	$219\frac{3}{4}$
<i>e.</i> $DD \times DR \infty DD + DR$ . .	20	92	12	3	0	0	77	77
<i>f.</i> $DD \times DD \infty DD$ . . . .	0	0	0	0	0	0	0	0
<i>Totals</i> . . . . .	206	1097	146	14	351	359	586	578

Some of the data represented in the table require special explanation.

Among the offspring which resulted from matings of the first type,  $RR \times RR$ , ten are recorded as being normal, although theoretically all should be neuropathic. Of these ten one died at the age of thirty-eight years in an accident, during life suffered from asthma, had a son who died in convulsions; another is described as being easy going, is somewhat odd and possibly abnormal in make-up, is twenty-nine years of age; the rest are from eight to twenty-two years of age. In other words, in two of the ten subjects the neuropathic constitution is not positively excluded and the remaining eight have not reached the age of incidence.

The matings of the second and fourth types,  $DR \times RR$  and  $DR \times DR$  respectively, have been divided into two groups each, as already explained in the preceding section: thus groups *b* and *d* in the chart include the matings in which the simplex condition of either or both mates, as the case may be, is definitely ascertained, the exist-

ence of neuropathic manifestations either in ancestors or in collateral relatives of the subjects appearing in the pedigrees; groups  $b_1$  and  $d_1$ , on the other hand, include the matings in which the simplex condition of either or both mates is assumed to exist on the basis of the character of the offspring. It is perhaps not surprising that groups  $b_1$  and  $d_1$  are larger than  $b$  and  $d$  respectively when we consider the great likelihood of neuropathic taint, derived from an ancestor of a remote generation, being transmitted many times in the shape of a simplex condition, and at the same time the fact that our investigations extended in almost all cases no farther back than the generation of grandparents.

As is shown in the table the correspondence between theoretical expectation and actual findings is in some cases exact and in all cases remarkably close. It would seem, then, that the fact of the hereditary transmission of the neuropathic constitution as a recessive trait, in accordance with the Mendelian theory, may be regarded as definitely established.

## 56. THE CAUSES OF INSANITY<sup>1</sup>

The term "insanity" is essentially of legal significance. The law is chiefly interested in determining the facts of responsibility for conduct. The physician and sociologist on the other hand are interested not only in the responsibility of the individual for any conduct on his part, but also in the reasons why such odd conduct originated regardless as to the degree of responsibility accompanying it. We may arrive at a more comprehensive viewpoint of this subject if we adopt the attitude of looking at the insane as simply human beings who from varying causes find themselves thinking in certain ways which seem odd or unusual to the rest of us. The queer notions, the delusions and hallucinations, the changes in the feeling tone (the affect) which accompany such ideation all mirror themselves in the symptom-behavior of the patient and hence conduct develops which has in view the accomplishment of this unusual ideation, or in other words the striving to attain the deep wish-trends of the personality. These wish-

<sup>1</sup>From "The Causes of Dependency: Based on A Survey of Oneida County" (pp. 378-381), by Chester Lee Carlisle, M.D. *Eugenics and Social Welfare Bulletin* No. XV. New York State Board of Charities, 1918.

trends are for the most part formulated in the deep sub-conscious mental life of the individual and their influence on subsequent conduct produces results which often appear very inconsistent to that same individual's surface personality. This accounts for the change in talk, attitude, and behavior such an individual presents when he appears before us as a patient suffering from one of the various forms of "insanity."

Insanity or mental disorder may be broadly considered to fall into two categories: (1) those cases dependent upon actual and definite changes in the brain and spinal cord; and (2) those cases which develop odd ways of thinking as the expression of inadequacy of reaction to life as they find it; a reaction type which is dependent upon innate constitutional deviations of personality or individual make-up. In the first [organic] group fall such cases of insanity as are due essentially to bacterial (micro-organism) invasion; or to the breaking down of one or more of the various physical "organs" of the body, [i.e. the brain and cord and also, notably, the blood-vessels, heart, kidneys, and thyroid gland]; or the failure in function of other organs particularly those associated with metabolism as a whole; and the effect of poisons originating either inside the body from perversion of organ function or those which are taken in from the outside as alcohol or other drugs and chemicals. There is another organic group which comprises cases due to destructive accident or "trauma" whereby the brain, cord, or some other associated organ suffers partial or complete loss of substance with resulting disturbance of function. When, after trauma, there is no actual organic disturbance of organ substance yet nevertheless a psychosis develops we feel that the symptoms are due to an underlying constitutional peculiarity.

The insanity (psychosis) of those individuals which falls into the second or constitutional group may be spoken of as the expression of inadequacy of reaction to life as their environment shapes it. This group embraces all those cases whose symptom-behavior is due to constitutional deviations, or twists of make-up founded upon developmental possibilities [unit character traits] received from ancestors and moulded by the environment in which that person lived from his first moment of life.

Of the causes of insanity other than heredity among first admissions to State Hospitals for the fiscal year of nine months ending

June 30, 1916, for the whole state of New York the following are listed in the report of the State Hospital Commission:

Admissions, total cases . . . . .	4903
Alcohol . . . . .	506
Syphilis . . . . .	709
Drugs . . . . .	20
Abnormal make-up . . . . .	1488
Injury to head . . . . .	41
Acute illness . . . . .	13
Childbirth . . . . .	44
Senility . . . . .	498
Arteriosclerosis . . . . .	586
Epilepsy . . . . .	23
Death in family . . . . .	64
Loss of employment and financial loss . . . . .	97
Disappointment in love . . . . .	50
Other specified causes . . . . .	607
Unascertained . . . . .	1192

The outstanding figure in this list is 1488; the number of cases due to "abnormal make-up." It would seem to suggest that environmental stress finds most of its victims in those who are constitutionally predisposed to mental breakdown through having innate deviations of make-up. The 1916 report of the State Hospital Commission has shown that of all the various types of psychoses diagnosed on first admissions, the percentage of cases having a family history of insanity, nervous diseases, neuropathic or psychopathic traits was 49.9 per cent or almost exactly one-half of the total number treated and states further that "the facts set forth in the table cannot be considered as presenting a fair statement of the influence of heredity in causing the various psychoses. The histories of many of the cases are incomplete, and verification of data received from relatives and patients is in most cases impossible. . . . It is probable that more thorough research would show a still larger percentage of cases with unfavorable family history."

## 57. EPILEPSY<sup>1</sup>

A definition of epilepsy is difficult. The root meaning of the word conveys very little idea of the condition, but it has come to have the applied meaning which seems to be all that is necessary. If a person

<sup>1</sup> By Everett Flood, M.D., formerly Superintendent of Monson State Hospital. From the *Boston Medical and Surgical Journal*, Vol. CLXXV, No. 12, pp. 408-409.



has a fit of any degree, mild or severe, frequent or infrequent, and this fit is repeated even a few times at intervals, we say that the person is epileptic; but it ought to be understood that epilepsy is not a disease. It is a symptom, or a collection of symptoms, of quite a variety of conditions.

It is probable that among the people of civilized countries there may be found at least three persons in every thousand who permanently have recognized attacks of epilepsy. It is also true that a very large number never come to light, and that the person afflicted goes on through life with real epilepsy but is never counted among the epileptic class. In the whole community, about one child in twelve has some sort of a fit in early life. A few have them repeated, and yet nearly all fail to become epileptic.

The problems connected with the institutional care of epileptics are very much the same problems as those connected with the care of the feeble-minded and insane. In 500 cases of feeble-minded, 11 per cent are epileptic. This 11 per cent are essentially like the balance that do not have fits. They do not even rapidly go down hill mentally during a long series of years. Those epileptics who do dement come from the classes not so primarily feeble-minded.

Of the institutional cases which come to autopsy, 78 per cent show gross brain lesions. Probably nearly all the other cases show microscopic lesions. There is no way of knowing whether there are actual lesions in the cases of those who as a rule do not come to institutional care, and this class is very much larger than the class that does come to institutional care.

A person who is afflicted with epilepsy may be engaged in any occupation, but if his attacks recur many times, he is sure to lose his position; and I doubt if there is often a case where the epileptic symptom is at all prominent without some manifestation in conduct which is different from the absolutely normal.

Of institutional cases, 184 epileptic children were examined with great care. Fifty-three per cent of these were distinctly feeble-minded; 44 per cent were on the road to dementia; 2 per cent only were without very positive mental symptoms. Among 1033 cases, including the 184 young persons cited above, 631 are feeble-minded, 377 insane, and 25 normal. All the normal but two are among the children.

In a group of 221 cases, 30 per cent presented active mental symptoms such as mania, delusions, and hallucinations. This agrees somewhat with the 44 per cent who finally dement.

When we find that so many of the cases in which epilepsy occurs are among those who are defective, it is natural to assign this enfeebled mental condition as in some way a cause of their epilepsy. How this occurs in a few of the feeble-minded, and in a majority does not, I think would be impossible to say. We may assume that there is some inherited tendency which produces this epileptic symptom, and this seems to be as far as we can venture.

A large number of cases of epilepsy have an inheritance of either feeble-mindedness, epilepsy, migraine, alcohol, or insanity.<sup>1</sup>

A certain number of cases of epilepsy are of course caused by injuries to the head, and some follow such conditions as scarlet fever and measles, but it seems almost necessary in these cases to assume a predisposing cause, as an immense number of head injuries and scarlet fever attacks are not followed by epilepsy.

If parents can know the tendency to epilepsy, or the liability of a certain condition coming about, they can care for their children, provided they have the proper intelligence and suitable surroundings, and so guard the child in the way of wholesomeness of living, diet, self-restraint, etc., as to tide them over the critical periods of childhood to maturity without their manifesting this symptom. This has apparently been done in many cases, and parents should certainly be taught how to take care of children who are especially liable. After the fit has once occurred, the matter is one of difficulty; if it occurs at intervals for quite a number of times, then it is one of extreme dif-

<sup>1</sup> *Epilepsy in the offspring of epileptics.* Dr. D. A. Thom, former pathologist, and Gerna S. Walker, former social service worker of the Monson State Hospital, present a paper in the April, 1922, issue of the *American Journal of Psychiatry*, in which they conclude:

1. Epilepsy as a disease is not transmitted directly from parent to offspring, but rather, we believe, that it is the nervous system lacking in the normal stability that is inherited and the manifestations of this instability may be mental deficiency of all degrees, insanity of various types, neurological and psychopathic disorders, convulsions from various exciting causes, which would have little or no effect on a normally developed nervous system.

2. These mental and nervous disorders are less frequently found in the offspring of the so-called epileptic than we have heretofore believed, and the future of the offspring born of epileptic parents is not as hopeless as the pessimistic authorities on heredity record.

3. Maternal defects are more frequently manifested in some form or other in the offspring than are the paternal defects and, when present, are more likely to appear at an earlier age.

ficulty. However, even then, it is not hopeless in all cases and very much can be done in the way of home care, which is superior to institutional care, if properly conducted.

### 58. PURPOSES AND ADVANTAGES OF THE COLONY SYSTEM<sup>1</sup>

We can outline the purposes and advantages of ideal colonies:

1. They provide home life, simple and elemental in form, for they take the individual from his own home, unsuited to his peculiar needs, to a home especially designed to supply such needs.

2. They tend strongly—and this is the best feature of all—to preserve individuality, the one thing institutions are apt to submerge or destroy. In ideal colonies, individuals, not units and numbers, are integral, essential parts of the whole. There is in them no pressing and moulding of a great mass of humanity in small spaces through routine life until all are essentially alike.

3. The ideal colony provides vocations of all kinds and degrees for all who require them—vocations ranging from the simplest to the most complex, from weeding the cabbage patch to the making of brick and the construction of houses; provides education that begins at the alphabet and ends in some profession that guarantees self-support; provides amusements and recreations that are not bound by rules of necessity, regularity, or formality; provides for the organization of homes in a way to throw congenial spirits into pleasant companionship, and places the less fortunate, the less desirable, in a class apart; ideal colonies provide, in short, for the infinity of simple, daily, homely necessities that go to create and keep cemented together the best types of communal life. In doing this, they are more than homes in that they provide the highest treatment for disease, training along all lines, encouragement wherever required, upbuilding of character, and the necessary healthful restraint for all who need it; and less than institutions in that they do not destroy the individuality that counts for more than all the rest, but single it out and base all help upon its character.

The epileptic, the chronic insane, and the feeble-minded can all be successfully colonized. The system is not one of rigid requirements

<sup>1</sup>From "An Ideal Colony for Epileptics," by William E. Sprattling, M.D., formerly Medical Superintendent of the Craig Colony for Epileptics. Sonyea, New York. *Proceedings of the National Conference of Charities and Corrections*, 1903.

in little ways, and may be suitably modified to meet the peculiar needs of the three classes named. But in the care of all classes, its fundamental features are the same. To modify these would be fatal to the system itself.

The chronic insane and the feeble-minded can be cared for in other ways; in a few buildings, or what is less desirable, in a single large building; but epileptics cannot be cared for successfully, or even with partial success, in any other way than under the colony plan. For the epileptic it is ideal; for the insane and feeble-minded it would be a long step in advance of methods now in use, and would ultimately prove as valuable as it has for the epileptic.

### *Summary of Results Colonies Accomplish*

This summary, while applying particularly to what the system does for the epileptic, applies in many ways to the manner in which other defectives would be benefited under the same system, the proof of which is found in part in the many colonies abroad for the chronic insane, notably those at Alt Scherbitz and at Gheel.

First, it effects cures in a larger proportion of cases than can be effected under any other form of treatment.

Second, it brings about a reduction of the frequency and severity of attacks in the majority of all cases, a large per cent being sufficiently improved to permit them to go into the outside world and earn their living, the knowledge of how to do this having been acquired in the colony.

Third, it provides special education for a class in the special manner they require it to make them self-helpful, such education as they cannot get outside the colony.

Fourth, it promotes individual happiness in a large proportion of cases, due to living in an atmosphere of congeniality, an atmosphere saturated with a kindly feeling and a desire to help each other.

Fifth, it provides skilled forms of treatment by those who do no work but this, and gives opportunity for scientific research that can nowhere else be found.

Sixth, segregating epileptics in colonies has a too often forgotten value in that it keeps them from reproducing a progeny defective in the same, or even in a worse way. Epileptics should not marry.



## CHAPTER XVII

### BLINDNESS AND DEAF-MUTISM

#### 59. EXTENT, CAUSES, AND CONDITIONS OF BLINDNESS<sup>1</sup>

*The blind population of the United States: 1910.* The census data regarding the blind population of the United States in 1910 were obtained in part from the schedule employed in the enumeration of the general population, which contained a column for reporting cases of blindness, and in part from a special schedule mailed to each person who was reported as blind.

The total blind population enumerated at the population census of 1910 was 57,272,<sup>2</sup> representing a decrease of 7491, or 11.6 per cent, as compared with the number reported for 1900 (64,763). Owing to changes in the method of enumeration, however, as well as for other reasons, it is difficult to determine how far this represents an actual decrease. It is probable that the extra compensation paid in 1900, by stimulating the zeal of the enumerators, may have secured a much more complete return of the blind population at that census than in 1910. The definition of blindness which was adopted was somewhat more restrictive than that which appears to have been followed in 1900, with the result that many persons were eliminated in 1910 who would probably have been classed as blind at the earlier census. The census of 1910 was the ninth at which statistics in regard to the blind population have been secured. So far as it has been possible to

<sup>1</sup> Adapted from "The Blind Population of the United States," 1910, pp. 9, 11, 14, 16, 23, 35, 37. *Bulletin No. 130* of the Department of Commerce, Bureau of the Census. Government Printing Office, Washington, 1915.

<sup>2</sup> The Bureau of the Census announces that 52,617 blind persons were enumerated in the census of 1920. In 1910 the number was 57,272. Although this decrease of 4655, it is said, may be in some degree the result of a change in the method of reporting the blind, it probably indicates at least in part an actual decrease in the amount of preventable blindness, consequent upon the improvement in medical knowledge and the education of the public regarding the possibility and duty of preventing blindness.

determine, the United States was the first country to make an enumeration of the blind a permanent feature of its official statistical activities, and apparently the first to take any official census of the blind whatever, although it is possible that one or two European countries may have made earlier enumerations.

*Comparison with foreign countries.* The total blind population for most of the foreign countries taking censuses of the blind is 1,194,346. The total population of these countries being 874,376,489, the ratio of blind in the aggregate is 136.6 per 100,000 population. The countries specified comprise about one-half of the estimated total population of the globe, and on that basis it might be estimated that the total number of blind persons in the world is about 2,390,000. It is of interest to observe that the ratio between the reported blind population and the total population in the United States is comparatively low, the only important countries showing lower ratios being Belgium, Denmark, Germany, the Netherlands, Canada, and New Zealand.

*Sex.* At each census the number of blind males has been considerably in excess of the number of blind females, the number of males per 100 females in the blind population in 1910 being 130.7. The fact that the ratio of males to females in the blind population is so much higher than in the general population is to be explained by the fact that certain important causes of blindness, particularly injuries in mine explosions and other industrial accidents and wounds received in military service, are causes affecting the male population almost exclusively.

*Age.* The number of blind persons increases, generally speaking, with each succeeding age-group, while in the general population the number of persons enumerated decreases with each succeeding group. Two distinct causes contribute to bring about this situation. In the first place, since blindness is a defect which may occur at any period of life, and which is ordinarily not associated with any physical disorder likely to occasion death, the number of blind persons in any given generation will under normal conditions increase steadily with advancing years up to extreme old age. A second and more important factor contributing to an increase in the amount of blindness in the later age groups as compared with the earlier is found in the circumstance that two of the chief causes of blindness—namely, cataract, the leading single cause, and glaucoma—are peculiarly affections in-

cident to advancing years; cataract, it is true, may occur at any period of life, but is so commonly associated with old age that the term "senile cataract" is employed as a generic designation for all forms of noncongenital cataract except those resulting directly from traumatism or disease. As a result of these two important factors approximately one-half (49.4 per cent) of the total blind population reported in 1910 were sixty years of age or over, while the corresponding proportion for the general population was only 6.8 per cent, or about one-sixteenth.

*Race and nativity.* Both the colored and the foreign-born whites form a somewhat larger percentage of the blind population than of the general population, while the native whites, on the other hand, represent less than two-thirds (65.7 per cent) of the blind population, as compared with nearly three-fourths (74.4 per cent) of the general population. The high ratio for the negroes may perhaps be explained to some extent by the fact that the negro population is largely illiterate and resident in rural districts, where medical facilities are poor, so that eye diseases having blindness as a possible consequence are probably allowed to run their course unmolested to a much greater extent relatively in this class of the population than among the whites. In the case of the foreign-born whites, the high proportion of adults who have arrived at the age when the incidence of blindness is greatest, and also the considerable excess of males, are the factors chiefly responsible for the high ratio shown for this class as compared with the native whites.

*Occupations.* Of the 31,473 blind males ten years of age or over in 1910, only 7976, representing 25.3 per cent, or about one-fourth, were reported as being gainfully employed, as compared with a corresponding percentage of 81.3 for the total male population of that age, while of the 24,000 blind females of the same age, only 1345, or 5.6 per cent, were reported as gainfully employed, the corresponding percentage for the general population being 23.4. These figures do not mean, however, that even as many as nine thousand blind persons were earning their own livelihood; the actual number was in all probability considerably less. Leaving out of consideration the circumstance already noted that blind persons frequently were incorrectly reported by the population enumerators as still carrying on the occupation in which they were engaged at the time when they became

blind, in a large proportion, possibly the great majority, of cases where an occupation was reported on the special schedule the earnings received from it fell far short of the amount necessary to make the person reporting it self-supporting, in many instances being a mere pittance of less than \$100 a year. This is particularly the case among the female blind, a large number of the blind females for whom an occupation was reported merely doing a little knitting or fancy work and selling the articles which they made.

Practically two-thirds (67.1 per cent) of the blind males reporting an occupation were employed in one of the nine leading occupations.<sup>1</sup> Farmers are most important numerically, representing 22.2 per cent, or more than one-fifth, of the total number of blind males gainfully employed; most of these, of course, are persons who were already engaged in farming at the time when they lost their sight, and who continued to direct the operation of their farms even though prevented by their loss of vision from taking any active part in the farm work. The large number of farmers reported is, of course, due to the fact that farming is one of the most important occupations numerically in the general population, so that the number of farmers losing their sight by reason of disorders attendant upon advancing years will normally be relatively large; at the same time loss of sight, as already indicated, does not constitute so much of a handicap to persons engaged in this occupation as it does in most.

Next to farming, broom making is the most important occupation reported for blind males, the number of broom makers reported being 665, comprising 8.3 per cent, or about one-twelfth, of the total number gainfully employed. Musicians and teachers of music rank third, with 646, or 8.1 per cent of the total; this classification covers a wide scope, comprising a number of highly trained musicians, who are able to earn a substantial income by means of their profession, and also blind street singers, accordion players, and the like, whose actual profession could in many cases be more justly characterized as begging.

In any study of occupation statistics for the blind, particular interest attaches to those trades which have been found especially available as a means of employment for this class of the population and the

<sup>1</sup>These include farmers, broom makers, musicians and teachers of music, retail merchants, hucksters and peddlers, piano tuners, agricultural laborers, "laborers not otherwise specified," and chair caners.—Ed.



reporting of which presumably indicates that the person reporting has received special vocational training since the loss of his vision. The nine leading occupations for the male blind, as shown on the preceding page, include three such trades, namely, broom making, piano tuning, and chair caning, a total of 1256 blind males, or about one-sixth (15.7 per cent) of the entire number gainfully employed, being engaged in these three occupations. Figures as to the number employed in other trades of this character show the most important to be basket making, which gave employment to fifty blind men, mattress making, which was reported by forty-five, and carpet and rug making, which was reported by thirty.

Reference has already been made to the fact that the occupations reported were in many instances merely nominal. This is particularly the case with respect to two of the leading occupation classes, hucksters and peddlers and laborers "not otherwise specified," the former comprising very largely persons selling lead pencils, matches, shoe strings, and similar articles on the street, who might perhaps be more accurately described as beggars, and the latter persons picking up small sums now and then by the performance of odd jobs and chores. The woodchoppers and wood sawyers, who comprise mainly blind men earning a trifling amount from time to time by splitting or sawing wood for private families, also come under this general heading, as do probably the greater part of the canvassers and agents.

### *The Causes of Blindness in the United States, 1920*<sup>1</sup>

Schedules, or questionnaires, were mailed to all persons reported in 1920 as blind. Of the 52,567 blind enumerated, there were 40,913 who returned these schedules. Of these 35,788 reported the cause of blindness.

In 13,816, or 38.6 per cent, of these 35,788 cases for whom the cause was reported, the blindness was caused by some specific disease of the eye such as cataract or glaucoma; and in 5623 cases, or 15.7 per cent, it was a result of some general disease such as measles, meningitis, or scarlet fever. Accidents accounted for 5913 cases, or 16.5 per cent, of the total. There were 1429 persons in this number whose blindness was caused by explosives or firearms.

<sup>1</sup>From news release by the U. S. Bureau of the Census, dated August 2, 1922.

# CAUSES OF BLINDNESS: 1920

CAUSES	NUMBER	PER CENT DISTRIBUTION
Total Blind Persons Returning Schedules . . .	40,913	
Cause reported . . . . .	35,788	100.0
Definitely reported causes . . . . .	26,333	73.6
Specific affections of the eye . . . . .	13,816	38.6
Cataract . . . . .	4,896	13.7
Glaucoma . . . . .	1,932	5.4
Atrophy of the optic nerve . . . . .	1,756	4.9
Ophthalmia neonatorum . . . . .	1,198	3.3
Trachoma . . . . .	555	1.6
Diseases of the retina . . . . .	497	1.4
Corneal ulcer . . . . .	264	0.7
Cancer and other neoplasms . . . . .	247	0.7
Diseases of the iris . . . . .	240	0.7
Other specific affections . . . . .	2,231	6.2
General diseases . . . . .	5,623	15.7
Measles . . . . .	797	2.2
Meningitis . . . . .	526	1.5
Scarlet fever . . . . .	416	1.2
Kidney disease and diabetes . . . . .	308	0.9
Influenza (grippe) . . . . .	282	0.8
Typhoid fever . . . . .	253	0.7
Syphilis and locomotor ataxia . . . . .	252	0.7
Smallpox . . . . .	235	0.7
Other general diseases . . . . .	2,554	7.1
Accidents . . . . .	5,913	16.5
Explosives . . . . .	797	2.2
Firearms . . . . .	632	1.8
Falls . . . . .	445	1.2
Flying objects (not from explosions) . . . . .	380	1.1
Cutting or piercing instruments . . . . .	335	0.9
Burns . . . . .	113	0.3
All other accidental injuries . . . . .	3,211	9.0
Poisoning . . . . .	311	0.9
Foreign substances in the eye . . . . .	431	1.2
All other definitely reported causes . . . . .	195	0.5
Indefinitely or inaccurately reported causes . . .	9,119	25.5
Congenital (not otherwise specified) . . . . .	2,635	7.4
Neuralgia . . . . .	548	1.5
Exposure to heat . . . . .	507	1.4
Sore eyes . . . . .	497	1.4
All other . . . . .	4,932	13.8
Combination of different classes of causes . . .	330	1.1
Cause unknown or not reported . . . . .	5,125	

Cataract, the leading cause, was reported by 4896, or 13.7 per cent. Glaucoma, which ranked next, was reported by 1932, or 5.4 per cent. Atrophy of the optic nerve was given as the cause by 1756, or 4.9 per cent.

Ophthalmia neonatorum, or "babies' sore eyes," was reported by 1198, or 3.3 per cent of the total number reporting. That there has been a marked decrease in the relative amount of blindness due to this disease is indicated by recent statistics of admissions to schools for the blind, which show that only 14.7 per cent of the new students admitted in 1917-1918 were reported as blind from ophthalmia, as against 24.2 per cent of the students then attending who had entered in previous years. This decrease reflects the more general adoption of scientific methods of treatment, and especially the routine use of silver nitrate drops in the eyes of infants. The campaign to eliminate trachoma appears also to be meeting with success, as trachoma and "sore eyes" (which is usually in fact trachoma) together were reported by only 3.0 per cent of the total for 1920, as against 5.2 per cent for 1910.

## 60. THE PREVENTION OF BLINDNESS<sup>1</sup>

### *The National Committee for Prevention of Blindness*

*Organization.* The National Committee for the Prevention of Blindness was organized on January 1, 1915, for the purpose of meeting a need felt by workers in the field of prevention of blindness for some central agency to furnish information and assistance in carrying forward their work. It enrolls as active members and supporters both physicians and laymen, men and women, interested in public welfare, especially in the public health movements, not only officials whose duty it is to take measures to conserve health but also public-spirited humanitarians to whom the crime of letting children go blind, who might be saved from blindness or impaired vision, is an offense which calls for action looking to its prevention; in whom pity for the condition of sightlessness cries out for means to avoid it whenever possible. Half of all blindness is preventable; hence there is a field of activity for this Committee in helping to create by agitation and education a

<sup>1</sup>From the National Committee for the Prevention of Blindness Publications, No. 9. Cited to show how private agencies meet public problems.—Ed.

condition of watchfulness and care that this great calamity to individuals and to society shall not fall upon them needlessly.

*Objects.* 1. To endeavor to ascertain, through study and investigation, any causes, whether direct or indirect, which may result in blindness or impaired vision.

2. To advocate measures which shall lead to the elimination of such causes.

3. To disseminate knowledge concerning all matters pertaining to the care and use of the eyes.

*Program.* Service which the Committee proposes to render is included under the following heads:

1. Preparation of circulars of information and literature for general distribution and furnishing these at nominal cost to workers for the conservation of vision.

2. Making available the latest authentic information relative to this special subject.

3. Collecting and rendering available for general use a library of literature, photographs, lantern slides, exhibits, etc.

4. Rendering assistance and expert advice in formation of societies and associations for the prevention of blindness and for the advancement of those already formed.

5. Co-operation with educational and medical authorities—(a) in the establishment and improvement of service relating to eye conditions; (b) in the establishment of sight saving classes for children of such limited vision that they cannot profitably use the books and other educational equipment provided for normally sighted children.

6. Co-operation with safety and illuminating engineers to prevent eye accidents in the industries through the installation and use of safety devices and of adequate lighting systems.

7. Promoting legislation for improving the means of preventing blindness and impaired vision.

8. Publishing from time to time news of the movement for the encouragement and information of those engaged in the work. In seeking to effect its objects the Committee proposes co-operation with all individuals and organizations, both official and voluntary, whenever and wherever it can serve them or be served by them. It invites the assistance of all persons interested in its special subjects and all organizations for social improvement.



*General statement.* The function of the National Committee for the Prevention of Blindness is not to undertake case work, but to educate the public to an understanding of eye difficulties in such a way that they may apply the knowledge to both themselves and their children. It is found on the whole that general health organizations touch very lightly upon the question of conservation of sight. The Committee prepares a large quantity of literature, has a loan collection of six hundred slides, issues posters, helps in legislative campaigns, and arranges for lectures, single and in courses. State and city organizations undertaking this work depend chiefly upon the national organization for material and for help in solving their many problems. So far as the legislative work is concerned, the National Committee assists in drawing up bills to prevent blindness from ophthalmia neonatorum, from the use of the roller towel, for financial state assistance in establishing classes for conservation of vision, for the control of wood alcohol, for making certain communicable diseases, such as trachoma, reportable. Further, upon request, it sends a field secretary into the State, either to aid in appearing before legislators and special committees or in making an educational tour of the State for the purpose of preparing the lay mind for the necessity of such law.

### *State Legislation for Prevention of Blindness<sup>1</sup>*

There are two types of laws which provide for either direct or indirect work in the prevention of blindness:

*Direct preventive legislation.* Laws for the prevention of babies' sore eyes, commonly called ophthalmia neonatorum; laws providing for the control and elimination of trachoma and other contagious eye diseases; laws providing for the establishment of a state commission with authority and appropriations for work in the field of prevention, such authority usually being given to a state commission for the blind.

*Indirect preventive legislation.* School medical inspection laws; laws providing for the establishment of conservation of vision classes; factory laws providing for the safeguarding of vision; laws

<sup>1</sup> From the *News Letter* No. 38. Published by the National Committee for the Prevention of Blindness.

governing the sale of wood alcohol; laws governing the practice of midwives.

*Ophthalmia neonatorum.*<sup>1</sup> State legislation for the prevention of babies' sore eyes should include:

1. The early reporting of babies' sore eyes to health authorities.
2. The requirement that a prophylactic should be used in all cases of childbirth.
3. Free distribution of a selected prophylactic.
4. The insertion of an inquiry on every birth certificate as to whether a prophylactic has or has not been employed.
5. Authority for securing medical attention for uncared-for cases.
6. Adequate authority for the state board of health to enforce the Act.
7. Sufficient appropriations to enable the state board of health to carry on an educational campaign and also to enforce the Act.

*Trachoma.* State legislation providing for the control and elimination of trachoma should include:

1. Making trachoma a reportable disease.
2. Providing for the control and treatment of trachoma.
3. Establishing traveling clinics which may reach the outlying districts of a state.
4. Providing for prompt isolation of persons having trachoma in the communicable stage.
5. Granting an appropriation for the state board of health to carry out the Act.

*State commission.*<sup>2</sup> There should be established in practically every state a commission similar to the commissions for the blind in Massachusetts, Minnesota, New York, New Jersey, and Ohio, with authority and responsibility to engage in activities for the prevention of blindness. Such laws should include:

<sup>1</sup>This is the most prolific cause of unnecessary blindness, about 10 per cent of all blindness being due to this disease. It is caused by the introduction of any one of several pus-producing germs into the eyes of newborn infants, and the failure of the doctor or midwife to remove or destroy these germs.—C. C. van Blarcom, *Saving the Sight of Babies*. National Committee for the Prevention of Blindness Publications, No. 7.

<sup>2</sup>The objects, types, extent, scope, and organization of state commissions for the blind are well summarized by Harry Best in chap. xlv of his excellent book *The Blind*, published by The Macmillan Company, New York, 1919.—Ed.

1. Definite responsibility conferred upon the commission in prevention activities.
2. Provision for the employment of necessary agents or field workers.
3. An appropriation sufficient to enable the work to be carried out effectively.

*School medical inspection.* While medical inspection laws do not provide direct legislation for the prevention of blindness, nevertheless they do provide for the conservation of vision. The following are among the chief points:

1. The required establishment of such service by every school board.
2. The provision for periodic physical examinations.
3. Special provision for examination of eyes and ears.
4. Authority to school districts to establish and maintain clinics.
5. Provision for the instruction of prospective teachers in best methods of testing sight and hearing.
6. Establishment of a state agency to carry out such laws.

*Laws providing for the establishment of conservation of vision classes.* 1. Provision for the organization of conservation of vision classes by school districts with an adequate state subsidy.

2. Provision for proper state administration, including the appointment of a qualified state supervisor.

*Factory laws.* Usually such laws are passed in co-operation with state labor departments, or the state agency concerned with safeguarding industrial workers from accident hazards. The forces of all interested in the prevention of blindness and conservation of vision should be lined up with any agency in the state seeking to secure legislation safeguarding the health and lives of employees.

*Wood alcohol.* More stringent legislation should be passed in every state.

*Training of midwives.* If midwives are to be allowed to practise by law, certain minimum standards should be required by legislation or by authority given to a state board, possibly the one controlling entrance to the medical profession. Such legislation should include requirements for the proper registration and licensing of midwives. Society must protect itself by establishing schools for the proper training of midwives.

*Summary of State Laws and Rulings Relating to the Prevention of Blindness from Babies' Sore Eyes<sup>1</sup>*

Blindness from Babies' Sore Eyes (Ophthalmia Neonatorum) would practically never occur if a prophylactic were used in the eyes of every infant immediately after birth, and if every case of redness, swelling, and discharge from the eyes of infants were promptly and adequately treated.

The prevention of blindness from this cause depends upon (1) the education of the general public to its dangers, (2) the use of a prophylactic in every baby's eyes immediately after birth, and (3) the prompt treatment of any case that should occur. In addition to widespread publicity, certain legal provisions are necessary to accomplish the desired result. To ascertain how far these provisions exist in the various states, the National Committee for the Prevention of Blindness has made a study of those state laws and regulations which relate to the control of ophthalmia neonatorum—those from each state having been approved by its Commissioner of Health as correct to January, 1922. County and city ordinances and rulings are not included. This material, briefly summarized, shows the following:

1. The reporting of babies' sore eyes to the local health officer or to a physician is compulsory in . . . . . 44 states
2. The reporting law is printed on the birth certificate in . . . . . 13 states
3. Local health officers are authorized and required to secure medical attention for uncared-for cases, or to warn parents of the dangers and advise immediate treatment in . . . . . 36 states
4. Births are reported early enough to be of assistance in prevention of blindness work in . . . . . 17 states
5. The question as to whether or not precautions were taken against ophthalmia neonatorum is included on the birth certificate in . . . . . 25 states
6. Free prophylactic outfits are distributed in . . . . . 28 states
7. The use of a prophylactic by physicians and midwives is compulsory in . . . . . 24 states
  - By physicians only in . . . . . 2 states
  - By midwives and attendants only in . . . . . 2 states
  - Strongly recommended in an additional . . . . . 5 states
8. Popular educational leaflets, relating in whole or in part to prevention of infantile blindness, are distributed by State Departments of Health in . . . . . 35 states

<sup>1</sup> From the National Committee for the Prevention of Blindness Publications, No. 9.



A comparison with the Summary of State Laws and Rulings on this subject, issued December, 1918, by this Committee, indicates a most gratifying improvement in legislative action.

The first statutory requirement which should be made by all the states would seem to be the compulsory reporting of all cases of babies' sore eyes to the local health officer, with a penalty attached for not doing so. Medical attention could then be provided for all uncared-for cases, while the information secured regarding babies who are attended by physicians, as well as those who are not, would be valuable in showing the frequency with which this disease occurs and the frequency with which injury results from its neglect.

#### 61. EXTENT, CAUSES, AND CONDITIONS OF DEAF-MUTISM<sup>1</sup>

This report summarizes the data relating to the deaf and dumb in the United States in 1910 obtained in connection with the Thirteenth Decennial Census of population. It consists mainly of an intensive study of the statistics for the 19,153 deaf-mutes who returned a special schedule of inquiry which was sent out to every person reported as deaf and dumb by the population enumerators. The enumeration of the deaf and dumb population of the United States in 1910 was made through the medium of a separate column on the general population schedule. The instructions given to the population enumerators were as follows:

**Whether deaf and dumb.** If a person is both deaf and dumb, write "DD." For all other persons leave the column blank. Persons who are deaf but not dumb, or persons who are dumb but not deaf, are not to be reported.

Under these instructions a total of 44,519 persons were reported by the enumerators as being deaf and dumb; in addition, 189 persons not entered as deaf and dumb on the population schedules were subsequently reported to the office, either by themselves or by other interested persons, as suffering from the defects stated, making the total number reported as deaf and dumb 44,708. To each of these persons, as already stated, a special schedule of inquiry was sent by

<sup>1</sup>Adapted from *Deaf Mutes in the United States*. Department of Commerce, Bureau of the Census. Government Printing Office, Washington, 1918. Also newspaper releases of the Department of Commerce of July 19 and August 11, 1922.

mail, asking for data on a number of subjects which it was felt would be of interest in connection with a statistical study regarding deaf-mutism.

*Sex.* Of the 19,153 deaf and dumb persons for whom schedules were returned 10,507 were males and 8646 females, the number of males to each 100 females being 121.5. This pronounced excess of males among deaf-mutes is a well-recognized statistical phenomenon, for which, however, no satisfactory explanation has yet been found. To a certain extent, of course, it is due to the preponderance of male births, but as the number of males per 100 females in the general population under ten years of age, the period of life when most deaf-mutes lose their hearing, is only 102.2 it is obvious that there must be some other factor involved, especially as the higher death rate among infant males tends normally to equalize the number of the sexes.

*Marital status.* Of the deaf and dumb males fifteen years of age or over in 1910 for whom schedules were received, less than one-third (31.8 per cent) were married, widowed, or divorced, and of the females only a little more than two-fifths (41.4 per cent). A comparison of these percentages with the corresponding proportions for the total population brings out clearly the extent to which their defect acts as a bar to the marriage of deaf-mutes, the percentage married, widowed, or divorced for males in the total population being nearly twice and that for females one and three-fourths times as great as among the deaf-mutes included in the tabulation. The differences between the two sexes among the deaf and dumb in respect to marital condition are of much the same character and due to much the same causes as those in the case of the general population. Thus the proportion who were or had been married at the date of the census was somewhat higher for females than for males, in part because females as a rule marry earlier than males and in part because of the excess of males, as it is probable that in the great majority of cases deaf-mutes do not marry normal persons.

*Age when hearing was lost.* Of the 19,153 deaf-mutes for whom special schedules were received, 7533, representing 39.3 per cent, or about two-fifths, of the total, stated that their deafness was congenital. Of those whose deafness was acquired, by far the greater number (9254, representing 84.2 per cent, or somewhat more than five-sixths) lost their hearing during the first five years of life, this

class in fact constituting nearly one-half (48.3 per cent) of all deaf-mutes for whom schedules were returned. Only 1594 persons, or 8.3 per cent of the total number returning schedules, lost their hearing between the ages of five and nine, and only 140, or 0.7 per cent of the total, after reaching the age of ten. The total number who reported that they became deaf after reaching the age of eight, by which time the faculty of articulate speech is usually completely developed, was only 247. These were all persons who, probably by reason of their deafness, had entirely lost the power of speech as an effective means of communication, since, as already stated, a person who lost his hearing after reaching this age and was able to communicate effectively with others by means of speech, having presumably acquired the faculty of speech before he became deaf, was not, properly speaking, a deaf-mute, and therefore did not come within the scope of this report. As the parents naturally assume that a child is born in the possession of all its faculties, the existence of defective hearing is not usually suspected until the child reaches the age when most children begin to talk, ordinarily about the second year of life, or perhaps not even until it arrives at school age. This makes it possible for error in regard to the age when hearing was lost to arise in two ways. On the one hand, children who were actually born with normal hearing but lost it during infancy are likely to be regarded as congenitally deaf because so far as their parents have been able to perceive they have always been deaf; while, on the other hand, there will be a natural tendency, if the child has ever suffered from illness or accident, to attribute deafness to this cause, although as a matter of fact it was probably in many such instances congenital.

*Causes.*<sup>1</sup> The total number of cases in which deafness was reported as due to meningitis (including brain fever), scarlet fever, measles, diphtheria, or typhoid fever, the causes most generally recognized as producing deaf-mutism, was 5819, representing 70.2 per cent, or more than two-thirds, of the total number in which a classifiable cause was returned. This fact brings out clearly the great advance which would be effected in the direction of eliminating deaf-mutism by progress in the control of communicable diseases.

<sup>1</sup> The causes of deafness as listed by various American schools for deaf-mutes will be found in Harry Best, *The Deaf*, pp. 30-40.—ED.

*Heredity*

The total number of deaf-mutes returning special schedules who reported themselves as having deaf parents, brothers or sisters, or children was 4639, representing 24.2 per cent, or nearly one-fourth, of the total. Of these, 420, or about one-tenth, had deaf parents, the remainder reporting either deaf brothers or sisters or deaf children. Of those having deaf parents, 270, or about two-thirds, also had deaf brothers or sisters, and 28 had deaf children, 22 having both. Of the 4219 reporting deaf brothers or sisters or deaf children but no deaf parents, by far the greater number (3951) reported deaf brothers or sisters only, the number reporting deaf children only being 142 and the number reporting both deaf brothers or sisters and deaf children being 126. The total number reporting deaf brothers or sisters was 4347, or more than nine-tenths of the total number reporting deaf relatives, and the total number reporting deaf children was 296.

From the figures just given it is apparent that heredity is on the whole a minor factor in bringing about deaf-mutism, especially as a certain proportion of the cases where deaf-mutes reported deaf relatives represent instances where two or more members of the same family lost their hearing from the same contagious or infectious disease. This was indeed to be expected, in view of the extent to which deafness results from causes such as cerebrospinal fever, scarlet fever, and accident or other violence, where the loss of hearing is due to injury or infection from without. As a matter of fact, although the circumstance that deaf-mutism is to a considerable extent a hereditary defect is probably much more generally recognized than the circumstance that blindness may result from hereditary influences, only 2.2 per cent of the deaf-mutes from whom the Bureau of the Census received satisfactory schedules at the census of 1910 reported themselves as having deaf parents, whereas 3.7 per cent of the blind returning schedules reported blind parents. This more general recognition of hereditary influence in the case of deaf-mutism than in that of blindness is probably due mainly to the fact that in a considerable proportion of the cases of hereditary blindness vision is not lost until late in life, when the blind relatives of the previous generation are dead, whereas hereditary deaf-mutism is probably in most instances congenital.



Of the deaf-mutes in the United States who returned the special schedule, 4397 reported that they had children. The number of these who reported as to the hearing of their children was 4339, of whom 296, or 6.8 per cent, stated that they had deaf children.

Of the 19,153 persons who returned satisfactory schedules, 883, or 4.6 per cent, were the children of first cousins. This may be regarded as a relatively high proportion, as it is hardly probable that in every hundred marriages even four are marriages of first cousins. The percentage is, moreover, much larger than the corresponding percentage for the blind population returning special schedules (2.4); in fact the absolute number of deaf-mutes reporting that their parents were first cousins exceeded the number of blind so reporting by 174, although the total number returning schedules was 10,000 less. These facts indicate that the subject of consanguineous marriages is one of some importance for a study of deaf-mutism.

### *Means of Communication*

Of the individual means of communication, writing was the method most frequently reported, being employed by three-fourths (75.9 per cent) of the total. The proportions reporting the use of finger spelling and of the sign language were, however, nearly as great (74.8 and 74.6 per cent, respectively). The great progress that has been made in the teaching of speech to the deaf is reflected by the fact that nearly one-fourth (23.9 per cent) of the deaf-mutes included in the tabulation stated that they employed speech as a means of communication. The actual proportion of the deaf-mute population who had learned to speak was probably even higher, since many deaf-mutes were not reported as deaf and dumb by the population enumerators for the reason that because of their ability to speak they were not regarded as coming within the scope of the enumeration. Of the 17,000 deaf-mutes ten years of age or over in 1910 for whom special schedules were returned, 5457, representing about one-third (32.9 per cent) of the total number answering the inquiry on this subject, stated that they were able to understand what people said by watching the motion of their lips. It is doubtful, however, whether the number who habitually received communications from others through the medium of lip reading was so great, as instances were found where persons

reported themselves as able to read the lips who gave no evidence of ever having received any special instruction in schools for the deaf or elsewhere to assist them in overcoming the handicap of their defect.

### *Occupations of Deaf-Mutes*

Of the 9328 male deaf-mutes ten years of age or over in 1910 for whom schedules were returned, 5659, representing 60.7 per cent, or about three-fifths, were reported as being gainfully employed, as compared with a corresponding percentage of 81.3 for the total male population of that age. Of the 7672 female deaf-mutes of the same age returning schedules, 1213, representing 15.8 per cent, or about one-sixth, were reported as gainfully employed, the corresponding percentage for the general population being 23.4. In view of the fact that deaf-mutes ordinarily enter and leave school at a later age than hearing persons, and consequently commence earning their living later in life, it is possible that a comparison based upon the population twenty years of age or over would be somewhat more favorable to the deaf and dumb. The figures make it evident, however, that deaf-mutism is the cause of a serious economic loss to the community, the loss apparently being greatest relatively in the case of females. This is probably to be explained in large measure by the fact that gainful employment is not a matter of necessity for women to the same extent that it is for men, so that the former are perhaps more likely to be deterred from such employment by physical defects than are the latter. Another factor which may have some influence in this connection is the circumstance that the proportion of persons who have received any education and thus are equipped in some measure for overcoming the disadvantages attendant upon their defect is smaller among female deaf-mutes than among males. It must, however, be remembered that some of the females not reporting a gainful employment were engaged in household tasks in the home, work of distinct economic value to the community.

### *Deaf-Mutes in the United States: 1920*

The Department of Commerce announces that 44,885 deaf and dumb persons, or deaf-mutes, were enumerated in the census of 1920. In 1910 the number was 44,708. The Census Bureau included as

deaf-mutes not only deaf persons literally unable to speak, but others totally deaf from an early age, who learned to speak by use of those special methods or means employed for teaching the deaf who have not acquired the art of speech in the ordinary way. Owing to the increase of the general population during this decade, the enumerated deaf-mute population formed only 425 per million general population in 1920 as compared to 486 per million in 1910. There was only one deaf-mute for every 2350 general population in 1920, as against one for every 2060 in 1910.

In view of changes made in the method of reporting and the consequent uncertainty as to the relative completeness of the 1910 and 1920 enumerations, this apparent decrease cannot be taken as measuring the actual decrease. It may, however, be accepted as indicating that deaf-mutism has probably become somewhat less prevalent, since the statistics of the more advanced European countries have for some time showed a steady decrease in the ratio of deaf-mutes to population; and since there has been a gradual reduction and progressively more skilled treatment of certain diseases, especially diseases of children, which frequently cause deafness.

Schedules, containing such special facts as the cause of deafness and age of losing hearing, were returned and tabulated for 35,026 deaf-mutes, or 78.0 per cent of those enumerated in 1920. Those returning schedules in 1910 numbered only 19,153, or 42.8 per cent of those enumerated. Analysis of this group who returned schedules shows that there were approximately six males to every five females. The group included 88.0 per cent native whites, 7.5 per cent foreign born whites, and 4.2 per cent negroes.

### *The Causes of Deafness in the United States: 1920*

The Census Bureau included as deaf-mutes not only deaf persons literally unable to speak, but others totally deaf from an early age, who learned to speak by use of those special methods or means employed for teaching the deaf who have not acquired the art of speech in the ordinary way. There were 32,592 who reported the cause of deafness, and of those 13,513, or 41.5 per cent, reported that they were born deaf. So far as possible, causes of deafness were grouped according to the part of the ear chiefly affected.

# CAUSES OF DEAFNESS: 1920 AND 1910

CAUSES	NUMBER		PER CENT DISTRIBUTION	
	1920	1910	1920	1910
Total persons returning special schedules . . . . .	35,026	19,153		
Total reporting cause . . . . .	32,592	18,161	100.0	100.0
Causes affecting the external ear . . . . .	132	64	0.4	0.4
Causes affecting the middle ear . . . . .	8,290	4,507	25.4	24.8
Causes producing suppurative condition . . . . .	6,682	3,708	20.5	20.4
Scarlet fever . . . . .	3,346	2,005	10.3	11.0
Measles . . . . .	1,083	525	3.3	2.9
Disease of the ear . . . . .	464	237	1.4	1.3
Abscess in the head . . . . .	446	349	1.4	1.9
Diphtheria . . . . .	310	166	1.0	0.9
Pneumonia . . . . .	295	102	0.9	0.6
Influenza (grippe) . . . . .	151	87	0.5	0.5
All other . . . . .	578	237	1.8	1.3
Causes not producing suppurative condition . . . . .	1,589	789	4.9	4.3
Whooping cough . . . . .	636	301	2.0	1.7
Catarrh . . . . .	273	186	0.8	1.0
Colds . . . . .	263	156	0.8	0.9
All other . . . . .	417	146	1.3	0.8
All other causes affecting the middle ear . . . . .	19	10	0.1	0.1
Causes affecting the internal ear . . . . .	6,429	3,666	19.7	20.2
Causes affecting the labyrinth . . . . .	372	226	1.1	1.2
Malarial fever and quinine . . . . .	162	128	0.5	0.7
Mumps . . . . .	159	85	0.5	0.5
All other . . . . .	51	13	0.2	0.1
Causes affecting the auditory nerve . . . . .	5,976	3,399	18.3	18.7
Meningitis . . . . .	3,237	1,812	9.9	10.0
Brain fever . . . . .	1,314	927	4.0	5.1
Typhoid fever . . . . .	642	384	2.0	2.1
Paralysis and infantile paralysis . . . . .	236	35	0.7	0.2
Convulsions . . . . .	230	174	0.7	1.0
All other . . . . .	317	67	1.0	0.4
All other causes affecting the internal ear . . . . .	81	41	0.2	0.2
Combination of different classes of causes . . . . .	268	55	0.8	0.3
Unclassifiable causes . . . . .	17,418	9,860	53.4	54.3
Congenital . . . . .	13,513	7,533	41.5	41.5
Sickness . . . . .	2,019	1,027	6.2	5.7
Falls and blows . . . . .	1,177	587	3.6	3.2
Accident . . . . .	162	57	0.5	0.3
Earache . . . . .	158	60	0.5	0.3
All other . . . . .	389	605	1.2	3.3
Cause unknown or not reported . . . . .	2,489	992	.	.



Of those for whom the cause of deafness was reported, 8290, or about one-fourth, reported causes which affect the middle ear. This group included 6682, or 20.5 per cent, reported as due to diseases which produce ulceration of the ear, while 1589, or 4.9 per cent, were stated as due to diseases which do not cause ulceration. Nearly one-fifth, 6429, or 19.7 per cent, were reported as deaf from causes which affect the internal ear. These comprised chiefly 5976, or 18.3 per cent, who were stated to be deaf from causes which affect the hearing nerve, and 372, or 1.1 per cent, deaf from diseases which affect the labyrinth of the ear.

Of the specific diseases reported as causing deafness, scarlet fever accounted for 3346, or 10.3 per cent; meningitis, together with "brain fever" (which is really meningitis in most cases) was reported by 4551 cases, or 14.0 per cent; typhoid fever accounted for the deafness of 642 cases, or 2.0 per cent; measles was reported by 1083, or 3.3 per cent; and whooping cough by 636, or 2.0 per cent, of those reporting cause. Infantile paralysis, which was reported by only 0.2 of 1 per cent for 1910, was the stated cause of deafness for 236, or 0.7 per cent, of those reporting. This notable increase was due to the severe epidemics of this disease which have occurred in recent years.

## 62. HEREDITY OF DEAF-MUTISM<sup>1</sup>

### *Deaf Offspring*

1. *One or both partners deaf.* Marriages of deaf persons, one or both of the partners being deaf (taken as a whole, without regard to the character of the deafness), are far more liable to result in deaf offspring than ordinary marriages. The proportion of marriages of deaf persons resulting in deaf offspring is 9.7 per cent, and the proportion of deaf children born therefrom is 8.6 per cent. Just what proportion of ordinary marriages result in deaf offspring, and what proportion of deaf children are born therefrom, we do not know, but they are probably less than one-tenth of 1 per cent.

On the other hand, marriages of the deaf are far more likely to result in hearing offspring than in deaf offspring, the proportion of

<sup>1</sup>From *Marriages of the Deaf in America* (pp. 125-133), by Edward Allen Fay, Ph.D., Litt.D., Vice President Emeritus of Gallaudet College. The Volta Bureau, Washington, D. C., 1898.

hearing children reported being 75 per cent and the actual proportion probably considerably higher, while that of deaf children, as above stated, is 8.6 per cent.

These results are in accordance, on the one hand, with the law of heredity that a physical anomaly or an unusual liability to certain diseases existing in the parent tends to be transmitted to the offspring, and, on the other hand, with the law of heredity that the offspring tend to revert to the normal type.

2. *Both partners deaf, or one partner hearing.* For the hereditary transmission of the physical condition that results in deafness, it is not necessary that both of the partners in marriage should be deaf. On the contrary, taking the deaf as a whole, without regard to the character of the deafness, marriages in which both of the partners are deaf are not more liable to result in deaf offspring than those in which one of the partners is deaf and the other is a hearing person. Indeed, they seem to be less liable to result in deaf offspring. The proportion of marriages in which both of the partners were deaf that resulted in deaf offspring is 9.2 per cent, and the proportion of deaf children born therefrom is 8.4 per cent; the proportion of marriages in which one of the partners was deaf and the other was a hearing person, that resulted in deaf offspring, is 12.5 per cent, and the proportion of deaf children born therefrom is 9.8. If, instead of the number of marriages, we regard the number of deaf married persons, the number of deaf children born to every 100 deaf persons married to deaf partners is 9.4, while the number born to every 100 deaf persons married to hearing partners is 25.8. Even in marriages where both of the partners are congenitally deaf, the large proportion of them resulting in deaf offspring (24.7 per cent) and of deaf children born therefrom (25.9 per cent) can be explained in most cases by the circumstance that there were two persons instead of one liable to transmit the physical condition that results in deafness; for, if we regard the number of congenitally deaf married persons, we find that the number of deaf children born to every 100 congenitally deaf persons married to congenitally deaf partners (30.8) is not greater than the number born to every 100 congenitally deaf persons married to hearing partners (34.2). In the majority of cases no intensification of the liability to deaf offspring seems to be caused by the union of two deaf persons.

This conclusion is not, as it might appear at first sight, inconsistent with the general law of heredity that the liability to the hereditary transmission of any characteristic existing in the parent is increased by the union of "like with like"; for, when the deafness of the parent reappears in the offspring, the characteristic transmitted is not deafness, as has been generally assumed by writers who have discussed this subject, but it is some anomaly of the auditory organs or of the nervous system, or the tendency to some disease, of which deafness is but the result or the symptom. Inasmuch as these anomalies and diseases resulting in deafness are many and various, it is probable that in most marriages of deaf persons, and even of congenitally deaf persons, the pathological condition that results in deafness is not the same in one partner that it is in the other, and their marriage therefore is not, from a physiological point of view, a union of "like with like."

On the other hand, where the pathological condition of the two partners is the same, as it probably is in the majority of consanguineous marriages of deaf persons, there is doubtless an intensification of the liability to deaf offspring; but happily such marriages are comparatively rare. The number of them here reported, probably less than the actual number, is thirty-one, which is 0.69 per cent of the whole number of marriages. The proportion of these thirty-one marriages that resulted in deaf offspring is 45 per cent, and the proportion of deaf children born therefrom is 30 per cent. The curious circumstance above noted that the percentages of marriages resulting in deaf offspring and of deaf children born therefrom are larger where one of the partners was a hearing person than where both of them were deaf is probably chiefly due to the fact that the proportion of consanguineous marriages reported was much greater where one of the partners was a hearing person (2 per cent) than where both of them were deaf (0.37 per cent).

3. *Partners congenitally or adventitiously deaf.* Congenitally deaf persons, whether they are married to one another, to adventitiously deaf, or to hearing partners, are far more liable to have deaf offspring than are adventitiously deaf persons. The proportion of marriages of the former class, one or both of the partners being congenitally deaf, resulting in deaf offspring, is 13 per cent, and the proportion of deaf children born therefrom is 12 per cent; in marriages of the latter class, one or both of the partners being adventitiously deaf, the proportion

resulting in deaf offspring is 5.6 per cent, and the proportion of deaf children born therefrom is 4.2 per cent. The liability to deaf offspring is greatest when both of the partners are congenitally deaf, the proportion of marriages resulting in deaf offspring in such cases being 24.7 per cent, and the proportion of deaf children born therefrom 25.9 per cent.

Marriages of adventitiously deaf persons are more liable to result in deaf offspring than ordinary marriages, but when both of the partners are adventitiously deaf or one of them is a hearing person the liability is slight. The proportion of marriages resulting in deaf offspring where both partners were adventitiously deaf is 3.5 per cent, and the proportion of deaf children born therefrom is 2.3 per cent. Where adventitiously deaf persons were married to hearing partners the proportion of marriages resulting in deaf offspring is 3.2 per cent, and the proportion of deaf children born therefrom is 2.2 per cent. Where they were married to congenitally deaf partners the proportion of marriages resulting in deaf offspring is 8 per cent, and the proportion of deaf children born therefrom is 6.5 per cent.

The greater liability to deaf offspring of marriages of the congenitally deaf than of the adventitiously deaf is in accordance with the generally accepted law of heredity that congenital or innate characteristics are far more likely to be transmitted to the offspring than acquired characteristics. When the deafness of adventitiously deaf parents does reappear in the offspring, we may suppose that the physical anomaly or tendency to disease of which deafness was the result was probably congenital in the parent though actual deafness did not appear until some period later in life.

4. *Partners having deaf relatives.* Deaf persons having deaf relatives, however they are married, and hearing persons having deaf relatives and married to deaf partners, are very liable to have deaf offspring. (Probably hearing persons having deaf relatives and married to hearing partners are subject to the same liability, but such cases do not come within the scope of the present inquiry.) However the marriages of the deaf are classified with respect to the deafness or hearing of one or both of the partners, or with respect to the congenital or adventitious character of the deafness, the percentage of marriages resulting in deaf offspring and the percentage of deaf children born therefrom are almost invariably highest where both of the



partners had deaf relatives, next highest where one of them had deaf relatives and the other had not, and least where neither had deaf relatives; the only exceptions being in a few classes where the totals are too small to be regarded as important. Taking all the marriages of a year's standing or longer of which the results have been reported, where both of the partners had deaf relatives the proportion of them resulting in deaf offspring is 23.5 per cent, and the proportion of deaf children born therefrom is 20.9 per cent; where one of the partners had deaf relatives and the other had not, the proportion of marriages resulting in deaf offspring is 6.6 per cent, and the proportion of deaf children born therefrom is 6.4 per cent; where neither of them had deaf relatives the proportion of marriages resulting in deaf offspring is only 2.3 per cent, and the proportion of deaf children born therefrom 1.2 per cent. Probably the actual percentages of marriages resulting in deaf offspring and of deaf children born therefrom, where neither of the partners had deaf relatives, are even less than these, for in some cases the statements of the marriage records that neither of the partners had deaf relatives are not well authenticated, and in all of them there is the possibility that there were deaf relatives unknown to the persons who filled out the record blanks. Where neither of the partners has deaf relatives the liability to deaf offspring is very slight, perhaps not greater than in ordinary marriages.

In marriages where both of the partners are congenitally deaf and both have deaf relatives the proportion of them having deaf offspring and the proportion of deaf children born therefrom are very high (28.4 and 30.3 per cent); but where neither of the partners has deaf relatives, even though both of them are congenitally deaf, the liability seems to be slight, perhaps not greater than in ordinary marriages. Fourteen marriages of this class are reported, resulting in twenty-four children. Of these children one was deaf, but in this case the statement of the marriage record that neither of the partners had deaf relatives is not well authenticated. If we accept the statement, the proportion of marriages of this class resulting in deaf offspring is 7.1 per cent, and the proportion of deaf children born therefrom is 4.1 per cent; but if we reject it, there remains not a single instance of marriages in which both of the partners were congenitally deaf, and neither had deaf relatives, that resulted in deaf offspring. Though the total number of marriages of this class is not large enough to

render the result conclusive, yet, taking them in connection with the 111 other marriages of congenitally deaf persons in which neither of the partners had deaf relatives,<sup>1</sup> we are justified in concluding that, while congenital deafness may be a *prima facie* indication of a liability to deaf offspring, it is not to be accepted as a conclusive evidence of such liability.

The possession of deaf relatives, on the other hand, seems to be a trustworthy indication of a liability to deaf offspring. If a deaf person, whether congenitally or adventitiously deaf, has deaf relatives, that person, however married, is liable to have deaf offspring, the liability being much greater, however, in the case of the congenitally deaf than in that of the adventitiously deaf; and if a deaf person, either with or without deaf relatives, marries a person, whether deaf or hearing, who has deaf relatives, the marriage is liable to result in deaf offspring. If both partners have deaf relatives, the physical conditions tending to produce deafness, whatever they may be, are liable to be transmitted from both parents, and the probability of deaf offspring is therefore largely increased; but even when only one of the partners has deaf relatives, the liability to deaf offspring is still considerable.

5. *Partners consanguineous.* The marriages of the deaf most liable to result in deaf offspring are those in which the partners are related by consanguinity. Thirty-one such marriages are reported in the marriage records, and of these fourteen, or 45.1 per cent, resulted in deaf offspring. One hundred children were born from these thirty-one marriages, and of these thirty, or 30 per cent, were deaf.

The totals of the several classes of relationship, as first cousins, second cousins, etc., and the totals of the several classes of marriage, as of both of the partners deaf, one of the partners deaf and the other hearing, one or both of the partners congenitally or adventitiously deaf, one or both of the partners having other deaf relatives or not, are too small to enable us to form conclusions as to their comparative results; but the large percentage of marriages resulting in deaf off-

<sup>1</sup> The proportion of these 111 marriages that resulted in deaf offspring is 4.5 per cent, and the proportion of deaf children born therefrom is 2.4 per cent; or, if we eliminate one marriage record, the statement of which that neither partner had deaf relatives is not well authenticated, the proportion of marriages resulting in deaf offspring is 3.6 per cent, and the proportion of deaf children born therefrom is 2 per cent.

spring, and of deaf children born therefrom, in every one of these classes, indicates that it is exceedingly dangerous for a deaf person to marry a blood relative, no matter what the character or degree of the relationship may be, and no matter whether the relative is deaf or hearing, nor whether the deafness of either or both or neither of the partners is congenital, nor whether either or both or neither of them have other deaf relatives.

The reason why consanguineous marriages are so much more liable to result in deaf offspring than ordinary marriages of the deaf is, probably, that in such marriages the same condition tending to produce deafness is likely to exist in both of the partners, and, from the union of "like with like," to be transmitted to their offspring with increased intensity.<sup>1</sup>

<sup>1</sup> When Dr. Fay's book appeared, Dr. Alexander Graham Bell felt that the results tabulated on page 134 confirmed the opinion he had expressed in his memoir concerning the tendency on the part of the deaf to reproduce deaf offspring, and thus he was led to make an exhaustive study of the 4471 marriages of persons deaf from childhood that are presented in detail in Dr. Fay's book.

Dr. Bell found that in 974 of the marriages no information was obtained concerning offspring, while in 419 cases the marriage took place within a year of the date of report to Dr. Fay, so that no offspring had then appeared, and that 434 of the marriages were childless when reported to Dr. Fay. Eliminating these 1827 marriages from the 4471 recorded in Dr. Fay's book, left 2644 marriages of a year's standing or longer to be analyzed; for the children recorded were the offspring of only these 2644 marriages.

The total number of children recorded was 6782; of these 588, or 8.66 per cent, were deaf. These 588 deaf children were the offspring of only 302 of the marriages. Now, the summary table shown on page 134 of Dr. Fay's book does not give the total number of children born of these marriages, but Dr. Bell found these details available in Dr. Fay's book. After discarding two of the marriages (which resulted in three deaf children and "several" hearing children), because the total number of children born was not stated, he found the following totals:

Marriages resulting in deaf offspring . . . . .	300
Total number of children born . . . . .	1044
Number of deaf children . . . . .	583
Proportion deaf . . . . .	56%

In other words, from these 300 marriages that resulted in deaf offspring more than half of the children were born deaf.

Another development worthy of note is that of these 2642 marriages analyzed the average number of children per marriage in the 300 marriages that resulted in deaf offspring was 3.48, while an average of only 2.44 per marriage was reported in the 2342 marriages resulting in no reported deaf offspring.—From Fred DeLand's Introduction to *Graphical Studies of Marriages of the Deaf* (p. 6), by Alexander Graham Bell. The Volta Bureau, Washington, D. C., 1917.

63. EDUCATION OF THE DEAF AND THE BLIND<sup>1</sup>

Systematic care of the defective classes began in America in 1815, when a young theological student, Thomas Hopkins Gallaudet, started for Europe to study methods of teaching the deaf and dumb. A school for this class was opened in 1817, one for the blind in 1831, and one for the feeble-minded in 1845—practically fifteen years apart. In each case the first schools were in New England, the second in New York, the third in Pennsylvania; and these schools followed one another quickly. All started in the face of more or less distrust as to their feasibility. At first all were experimental, being started through private initiative. A few pupils were taught and exhibited before the amazed public, when in the case of the deaf and the blind private funds in abundance were contributed and the schools quickly established as private corporations. In the case of the feeble-minded the first school to be incorporated was a public organization—that is, it was supported by the state. Before 1822 the state had not been educated to the point of supporting schools for the special classes, but by 1848 it was ready to see its duty towards even the idiotic, though wealthy people were by no means prepared to contribute directly to schools for them.

The three states named having led the way, the movement spread quickly into Ohio, Kentucky, Virginia, and Illinois—in almost identical order for each special class. Here, however, the schools for the three classes arose as state institutions. It had become an accepted part of public policy for the state to provide a means of education for all her children. The superintendents of the early schools for the deaf and dumb were generally clergymen; those of the blind and the idiotic, generally physicians. The institutions were necessarily boarding schools; and the early ones were established as a rule in or near the state capitals, chiefly that their achievements might be kept before the members of the legislatures, on whose practical sympathy the continuance of the schools usually depended.

The large private or semi-public institutions are confined to the eastern states, where the movement began. Their support comes

<sup>1</sup>From *Education of Defectives* (pp. 3-29), by Edward E. Allen, Director of the Perkins Institution and Massachusetts School for the Blind. Copyright, 1899, 1904, by L. B. Lyon Company.



chiefly from private bequests and the interest on invested endowment funds. All, however, receive what is termed state aid, and all make annual report to the state legislatures, to the commissioners of public charities or of public education, as the case may be. All these institutions are governed by honorary boards of trustees or managers, who appoint the superintendent or principal. In the semi-public organization the managers form a self-appointing, close corporation; in the public, they are appointed usually by the state governor, by whom they may also be removed.

The semi-public institutions are usually well endowed. Their expenditures are, therefore, not limited by legislative grant; and, moreover, these institutions are free from political interference, an interference which, in the case of several of the state organizations, has seriously affected from time to time the efficiency of the institutions themselves. As a rule, the institution plants are large and well equipped. Even when within the built-up cities the buildings are surrounded with ample lawns and playgrounds. The appropriations of money are generous, whether the schools are public or semi-public. The earlier institutions were built on the congregate plan; the later and those that have been rebuilt have generally adopted the segregate or cottage plan.

The pupils are not committed to these institutions, but are admitted or rejected by the boards of trustees on the recommendation of the superintendents.

The early institutions for all three classes of defectives began purely as schools. And all those existing to-day, except those for the feeble-minded, discharge or graduate all pupils after these have completed the course of instruction. With the feeble-minded this plan was found to be inexpedient, for reasons which will be stated later.

A very recent movement, started by the instructors of the deaf, is the affiliation of the educators of the defective classes with those of the National Educational Association. It is being more and more recognized that the line between a defective and a normal child cannot be drawn hard and fast, and that many a child who appears dull and stupid in school is in some measure defective. Hence, these special schools afford fields of most helpful suggestion to teachers of ordinary children. All persons intending to make teaching a vocation should become acquainted with these schools and their methods.

It is interesting to note that systematic work for the deaf and dumb, the blind, and the feeble-minded began in France, and that to France America sent its early teachers to study methods and ascertain results.

### *Schools for the Deaf*

About the middle of the last century three schools for the deaf and dumb were opened in Europe, one in France, one in Germany, and one in Scotland. Though they sprang up at about the same time they were yet wholly independent in origin. In Paris the Abbé de l'Épée having observed two deaf-mute sisters conversing by means of gestures, seized upon the idea that in gesture language lay the secret of instructing the deaf and dumb. He therefore elaborated a system of gesture signs and made it the medium of instruction in the school which he started. Heinicke in Dresden and Braidwood in Edinburgh simply adopted articulate speech as the language of man and taught their pupils through it, requiring them to speak and read the lips of others. Thus arose the two important methods of deaf-mute instruction.

Reports of the successes, chiefly in the British school, having reached America, several parents of deaf-mutes sent their children to Scotland to be educated. These deaf children returned no longer as mutes; they were able to converse readily by speaking and lip reading. One of these parents was so delighted with his boy's schooling that he published a book in London and wrote articles for the New England periodicals, with the intention of arousing interest in the new work. This man also took steps to ascertain the number of deaf-mutes in Massachusetts. Another man in Virginia, some of whose relatives had attended Braidwood's school, even opened a little school for deaf and dumb pupils in his state, employing as its teacher one of the Braidwood family, who had come to America for the purpose of continuing in the profession of his family here. This was in 1812. The school was the first of its kind started in America. However, it was soon given up, as was a similar effort in New York, where a clergyman undertook to instruct several deaf children whom he found in an almshouse.

Though the events above touched upon seemed to result in little, they yet had great effect in directing intelligent attention to this field of work. They constitute its preliminary stages.

It happened in Hartford, Conn., that there was a physician, one of whose little daughters had become deaf. Why could not this child be educated as well as her hearing sisters? With this thought he spent some eight years in agitating the question of starting a school for deaf children. In 1815 money enough was raised in a single day to defray the expenses of sending a teacher abroad to study methods. A young graduate of Yale College and of a theological seminary was chosen as the teacher to go. This was Thomas Hopkins Gallaudet, who was destined to become the founder of deaf-mute instruction in America.

Of course he went to Great Britain. But the doors of the British schools were closed to him. He found the science and art of teaching the deaf regarded as a business monopoly, whereas he had expected to find it conducted from his own motive of philanthropy. After wandering about there for nine months he gave up hope of acquiring the Braidwood method and accepted an invitation to study methods at the Paris school. At this school he spent the three remaining months of the year, a time far too short in which to acquire the special language of gesture signs. Hence, he induced a deaf-mute, who was teaching in the school, to accompany him to America. This man was the brilliant and accomplished Laurent Clerk, who became an engine of power for establishing schools for deaf-mutes in our country. Thus was the French method or the sign-language method brought to America. It was improved and further systematized by our early teachers and in this form was the basis of instruction in all our schools for half a century.

During the absence of Dr. Gallaudet, influential men of Hartford had secured from the state legislature the incorporation of the Connecticut asylum for the education and instruction of deaf and dumb persons. Upon his return he and Mr. Clerk traveled for eight months among prominent cities in behalf of the cause of the deaf. The exhibition of Laurent Clerk alone helped the cause as nothing else could have done. On April 15, 1817, school work began at Hartford with seven pupils. During the year thirty-three pupils came. This was the first permanent school in the country. While in other countries similar schools had no reliable basis of support, the founders of our schools immediately established theirs on a permanent basis. Private aid was necessary at first, but no sooner had the feasibility of the work been shown than public moneys were granted.

In this year the Connecticut asylum changed its name to the American Asylum at Hartford for the education and instruction of the deaf and dumb; for it was then supposed that one school could accommodate for many years all the pupils of the country who would attend school. But interest in the schooling of deaf-mutes had been aroused in other places. In 1818 a school was opened in New York under a teacher from Hartford; and in Philadelphia, where Dr. Gallaudet and Mr. Clerk had gone to obtain aid for the Hartford school, an humble storekeeper by the name of Seixas began to teach, in 1819, a little class of deaf pupils, and he was so successful that an institution was organized in 1820 with Seixas as first teacher and principal. In a very few months he was succeeded by a permanent principal from Hartford. Back in 1819 Massachusetts had provided an appropriation for the education of twenty indigent pupils at Hartford, and in 1825 New Hampshire and Vermont adopted the same policy.

Other states soon followed this good example. Thus, through the efforts of the founders of this [the Hartford] school, the humane, just, and wise policy of educating deaf-mutes at the public expense was firmly established in this country, and has been adopted by almost every state in the union. In some of the western states means for the education of deaf-mutes are secured by constitutional provision. This has put the schools for deaf-mutes in the United States on a better basis, financially, than those in any other part of the world.<sup>1</sup>

Only two years after the founding of the Pennsylvania school, Kentucky followed with its institution, being the first to be supported by a state. The act establishing it limited the pupils at any one time to 25, and their term of instruction to three years. In fact limits of this kind are usually prescribed in all the early institutions. (The Illinois school now has 612 pupils, and the New York schools allow a term of seventeen years.) The first principal of the Kentucky school went to Hartford for a year to study methods. Ohio and Virginia soon followed in the good work. Both received their first superintendents from Hartford. Thereafter institutions sprang up rapidly in the south and west, taking their early superintendents or teachers either from the parent school at Hartford or from one or another of the older schools.

<sup>1</sup>"American Asylum," chap. i, p. 13, in *Histories of American Schools for the Deaf*.



In 1857 there was incorporated by the national congress the Columbia institution at Washington, D. C., which requires special mention. Though originally intended as a school where the deaf children of government beneficiaries could be educated, circumstances of which not the least influential was the energy of its principal, Dr. Edward M. Gallaudet, son of the pioneer, soon brought about a change enabling the institution to confer collegiate degrees. The institution was then divided into two departments, the advanced department taking the name of the National deaf-mute college. Thus, in 1864, America had taken a step "unprecedented in the history of deaf-mute instruction."

Most of the deaf and dumb are either born deaf or become so before acquiring language. They are dumb because they are deaf, and without special instruction can never know any but a gestural language. The pioneer educators of the deaf in this country were all "broad-minded men of liberal education," and they set a high standard at the outset for the work. A language of signs they saw was the key to the instruction of their pupils, who, indeed, were allowed so few years of schooling, that no time was to be lost in laboring over the extraordinary difficulties of teaching them speech. Moreover, these teachers saw with great satisfaction the development of their pupils through the language of signs.

This language is ideographic—"being readily expressive of ideas and emotions," rather than of phraseology. Put into words their order is entirely different from the natural order, thus, "Let it be supposed that a girl has been seen by a deaf-mute child to drop a cup of milk which she was carrying home. He would relate the incident in the following order of sign words: Saw-I-girl-walk-cup-milk-carry-home-drop."<sup>1</sup> The late superintendent of the Illinois institution, Dr. Gillett, writes:

When reduced to a system they [signs] form a convenient means of conveying to one mind the ideas conceived by another, though not clothed in the language in which a cultured mind expresses them. One addressed in the sign language receives the idea and translates it into English without any intimation of the phraseology in the mind of the speaker, so that a dozen persons familiar with the sign language, observing the gesticulations of a speaker, would each translate correctly the thoughts given forth, but no two of them would be in exactly the same phraseology. It is a concrete language, in which the expression of abstract ideas is exceedingly difficult.<sup>2</sup>

<sup>1</sup>Article "Deaf and Dumb" in *Encyclopædia Britannica* (9th ed.). American reprint.

<sup>2</sup>Gillett, *Some Notable Benefactors of the Deaf*, pp. 14-15

As the ideas are given out chiefly by means of hand gestures, schools using the sign language as a means of instruction are said to follow or use the manual method.<sup>1</sup>

Among the manually-taught deaf this language early becomes the vernacular. As it is a language of living pictures, such deaf people think in pictures and dream in them. The sign language is said to be to the deaf what spoken language is to the hearing; and yet its use in the school room is deemed by many teachers extremely detrimental to the acquisition of the English language, and, therefore, unwise.

All our educators of the deaf agree that giving to their pupils the ability to use the English language is their chief end and aim. They differ widely, however, over the use of signs. The greater number believe a moderate use of them to be economical of time and extremely useful to the deaf in the acquisition of knowledge. There is a small but growing number who dispense with signs in toto just as soon as possible. These latter teach by the intuitive, direct, or "English language method." They teach English by and through English, spoken, read, and written.

It is extraordinarily difficult to get started by the oral or English language method. But teachers of this method claim that once well started their pupils advance more logically, more surely, more precisely, and finally more swiftly than the pupils of those permitting the intervention of signs. Advocates of using the signs together with other means claim that the minds of most of their new pupils are sluggish from want of language to think in, and that they need to be aroused by the quickest method; that their pupils have already lost too many years of youth, and that to cause them to lose more because of a theory is wrong and wicked. This school asserts that "A large percentage of the deaf under proper methods can obtain a very useful amount of speech and lip-reading, but [that] there is also a large

<sup>1</sup> The simple sign for cat well illustrates the graphic nature of the language. In order to teach this sign, a sign teacher "would show the child a cat, if possible, or a picture of a cat, which would be recognized by the child. The next step would be to direct attention to the cat's whiskers, drawing the thumb and finger of each hand lightly over them. A similar motion with the thumb and finger of each hand above the teacher's upper lip at once becomes the sign for cat. The instructed deaf child will be expected to recall the object, cat, on seeing this conventional sign."—GORDON, *The Difference between the Two Systems of Teaching Deaf-Mute Children the English Language*, pp. 1-2.

percentage of them that would be greatly restricted in their mental development, if allowed no other means of instruction," and continues:

"We are striving to take the golden mean, placing first in importance mental development and a knowledge of written language, and adding thereto in the case of every child speech and lip-reading to the degree that his capacity and adaptability allow him to acquire them."<sup>1</sup>

And again, "For rapid and clear explanation, for testing the comprehension of the pupil, for lectures and religious instruction before large numbers of pupils, there is no other means equal in efficiency to the sign language. Its proper and conservative use always tends to mental development, saves time, and is the most efficient aid known in the acquisition of written and spoken language."<sup>2</sup>

The other school affirms that the two methods or systems are mutually exclusive, saying:

Of course no pupil can be taught under the intuitive and sign method at the same time, and it is impossible to combine into one system a method which is dependent upon the "sign" language at every stage of instruction with a method which dispenses absolutely with the "sign" language at every stage in teaching the English language. In the "sign-language" method instructors aim to teach the vernacular language through the intervention of signs, but their deaf-mute pupils acquire a mixture of natural signs, pantomime, conventional signs, and finger spelling which becomes the habitual vehicle of thought and expression, wherever it is possible to use a gestural language, to the exclusion of the English language. The intuitive method dispenses entirely with the crutch of the "sign-language" in the mastery of English.<sup>3</sup>

A form of the English language method, taught at the Rochester (N.Y.) institution, substitutes finger spelling for signs as these are used in manual schools, and is called the "manual alphabet method." Superintendent Westervelt says of it, "It is the principle of our method of instruction that the child has a right to receive instruction through that form of our language which he can understand most readily, with the least strain of attention, and the least diversion from the thought to the organ of its expression."<sup>4</sup>

<sup>1</sup> *Third Biennial Report of the American School*, p. 12.

<sup>2</sup> *First Biennial Report of the American Asylum*, p. 17.

<sup>3</sup> Gordon, *The Difference between the Two Systems of Teaching etc.*, p. 3.

<sup>4</sup> Western New York Institution, *Histories of American Schools for the Deaf*, chap. ii, p. 11.

So much for the rival methods, which, however, it is absolutely necessary to understand if we would comprehend the history of deaf-mute education in America.

The history of the rise of the oral method is interesting. As has been said, the manual method reigned supreme for the first fifty years of the work. In 1843, Horace Mann, secretary of the Massachusetts state board of education, and Dr. Howe, director of the Perkins institution for the blind in Boston, made a tour of Europe. In his next annual report Horace Mann praised the oral method as taught in Germany, stating that it was superior to the method employed in America. The report was widely read, and caused no little commotion among our teachers of the deaf, several of whom went abroad to see for themselves. These gentlemen did not agree with Horace Mann, and little change was then made in American methods. Still as a result of their recommendations, classes in articulation were introduced into several schools. Later, in 1864, the father of a little deaf girl in Massachusetts began to agitate for the incorporation of an oral school in that state. A small private school of the kind was soon opened near Boston. In the nick of time—for the opponents of opening an oral school were active—a Mr. Clarke of Northampton offered to endow a school for the deaf in Massachusetts. The project being favored by the governor of the commonwealth, and by Dr. Howe, who was then secretary of the state board of charities, the legislature incorporated in 1867 the Clarke institution at Northampton, which was opened as an oral school. In the same year a former teacher of an Austrian school opened in New York what soon became the New York institution for the improved instruction of deaf-mutes.

This invasion of the field so long occupied by the silent method of signs occasioned much controversy. Dr. Edward M. Gallaudet, president of the Columbia institution, at once went abroad to examine schools and their methods. Upon his return he reported that if the whole body of the deaf were to be restricted to one kind of instruction, he favored results to be obtained by the manual methods of America; but he maintained "the practicability of teaching a large proportion of the deaf to speak and to read from the lips,"<sup>1</sup> and advocated the introduction of articulation into all the schools of the country. As a result a confer-

<sup>1</sup> Quoted in Gordon's *Notes and Observations upon the Education of the Deaf*, p. xxix.



ence of principals of American institutions met at Washington, which adopted resolutions in the line of President Gallaudet's recommendations. Classes in articulation were then very generally introduced.

During the next few years a gradual movement abroad towards the abolition of signs was evident. Dr. Alexander Graham Bell had introduced to teachers his father's system of visible speech, a system of written characters devised to show the position taken and the movement made by the tongue, teeth, lips, glottis, and other vocal organs in articulation. In 1890 the American association to promote the teaching of speech to the deaf was incorporated, with Dr. Alexander Graham Bell as president.

The early principals saw the need of exchanging ideas, and soon after the beginning of the work started an organ of communication. This organ, *The Annals of the Deaf*, is now in its forty-fourth volume. It is a quarterly magazine,<sup>1</sup> conducted under the direction of a committee of the conference of superintendents and principals of American schools for the deaf. It is a high-class, much-prized periodical, and is said to be the leading publication of its kind in the world. In the pages of the *Annals* have been published articles on all manner of questions relating to the deaf.

The Volta bureau is a unique institution. The Volta prize of twenty-five thousand francs awarded by the French government to Dr. Bell for his invention of the telephone, he applied to the founding of a bureau for the purpose of collecting and diffusing knowledge concerning the deaf. This is the Volta bureau of Washington, D. C. It has already published a large number of papers, studies, and books.

The influence of Dr. Bell upon the work for the deaf has been deep and lasting. The invention of the telephone itself resulted from his experiments upon a device which he hoped would enable the deaf to read the vibrations of the human voice. He has devoted his best energies and his means to furthering the work which he has made his profession. His great efforts have been towards the promotion of speech-teaching to the deaf.

Public day schools for the deaf have sprung up in various places. The Horace Mann school of Boston is a notable example. They fill an unquestioned need, as many parents refuse to send their deaf children off to an institution. A still further movement towards decen-

<sup>1</sup>It now appears six times a year.

tralization has come to pass in Wisconsin. Wherever in this state a few deaf children can be gathered near their homes, state aid will be given to pay teachers sent there to teach them. And this movement is tending to become more and more general. All these day schools spread the oral method. An important effect of the rise of this method has been the lowering of the age when deaf children are received, and of lengthening their term of instruction; also of largely increasing the number of women teachers employed.

With the lowering of the age of pupils, kindergarten methods have been made use of more and more; though no true kindergarten can be conducted in schools where language comes so hard and so late, where even natural signs are arbitrarily interdicted, and where there can be no music. But the occupations and the games are widely applicable and are now universally used.

From the above discussion it is seen that the deaf child comes to school with almost no language to think in, his only means of expressing his wants being crude natural signs. Such being the case, the first duty<sup>1</sup> of the teacher is to establish communication with him and thereafter, during his whole course at school, more than in any other kind of educational work, to make language the end of training and other subjects the means of varying language teaching. This statement is strictly true only of elementary education, but then the majority of deaf pupils do not advance far beyond the elementary stage; not because they cannot, for they can, but because so very much time is absorbed in language work that their progress in other things is slow; then, too, parents are prone to call their boys away from school as soon as they believe these can help sustain the family. A few of the brighter and more ambitious pupils from the schools take the course at the National deaf-mute college, now called Gallaudet college, where they have "an opportunity to secure the advantages of a rigid and thorough course of intellectual training in the higher walks of literature and the liberal arts." Occasionally we hear of deaf pupils taking high school work in schools with hearing pupils, and even of being graduated from colleges of the hearing.

The course of training at American schools for the deaf has always been practical. Indeed, industrial training is almost essential for those young people who would form industrious habits and facility in the use of tools that will put them on their feet when they enter the

world of labor ; for most deaf pupils will have to work for their living. Their educators have a magnificent incentive in the knowledge that the trained deaf are not at all disqualified from earning a living by simple inability to hear. In their schools general manual training is followed with a pupil until, for one reason or another, he chooses his trade or it is chosen for him. The general equipment for trade teaching is excellent. Printing is an extremely useful occupation for the deaf, especially in the acquisition of idiomatic language ; and nearly every institution for their instruction publishes one or more papers.

### *Schools for the Blind*

When it is stated that prior to 1830 the blind of America were to be found "moping in hidden corners or degraded by the wayside, or vegetating in almshouses," it is the adult blind that is meant. Still blind children were occasionally found in these places, though it could scarcely be said that they were vegetating, as could be said of the untrained deaf children. Their ability to hear and speak does not cut off the blind from the education of communion with friends and associates. The needs of the blind, then, were not so evident or so early forced upon people's attention as were those of the deaf and dumb children. Blind children were less often seen than deaf children, for the simple reason that there were and always are fewer of them. This fact was not then realized. The British census of 1851 first showed the world that over 80 per cent of the blind are adults. Our schools for the blind were started, first, because of the widespread interest in the results of educating the young deaf and dumb, which furnished inspiration for new fields of educational endeavor ; secondly, because the country was coming to the conviction that all the children of the state should receive education both as a matter of public policy and as a private right ; and thirdly, because reports of what had been accomplished abroad in schools for the blind were being promulgated in our land.

By 1830 the more progressive states of the east were ready to give their blind children school training. In that year the government first included in the national census the deaf and dumb and the blind. The work of the blind was to begin with scientific foreknowledge as to their number.

Private ardor to begin the work had been smouldering for several years, when in 1829 certain gentlemen in Boston obtained the incorporation of the "New England asylum for the blind." This was before they had selected either the pupils or a teacher for them. By a most fortunate circumstance, the interest and services were obtained of a graduate of Brown university, Dr. Samuel G. Howe, who after finishing his medical studies had chivalrously gone to the aid of the Greeks. This gentleman became the American father and Cadmus of the blind. He went at once to Europe to study methods of instruction. Upon his return, in 1832, the school was opened with six pupils. In New York the act of incorporation of the New York institution for the blind was passed in 1831; but funds were needed and no one went abroad to study methods. This school opened in March, 1832, antedating by a few months the school at Boston. In the very same year a German teacher of the blind, a Mr. Friedlander, most opportunely came to Philadelphia, in the hope of starting a school for the blind there. The way the enterprise was put through is typical of many other beginnings of special schools in America. Having trained certain blind children he exhibited their accomplishments, first, to a few influential people, secondly, before a large audience among whom he distributed a leaflet, "Observations on the instruction of blind persons." A meeting of public-spirited citizens followed, funds were liberally contributed, fairs held, and the success of the cause was assured. The Pennsylvania institution for the instruction of the blind was opened in 1833, fully ten months before an act of incorporation was obtained.

The three schools at Boston, New York, and Philadelphia are called the pioneer schools. All sprang from private effort and private funds. All were incorporated as private institutions, and remain so to this day. Two similar institutions for the blind have arisen in this country, that at Baltimore and that at Pittsburg.

The origin of the state schools differs from that of the type above given only in that classes of trained pupils from the earlier schools were exhibited before the state legislatures, as well as before the people. State appropriations followed and the institutions were inaugurated as state institutions. The new schools sprang into being with astonishing rapidity. There are now in 1899 forty schools for the blind in the United States, and every state in the union makes



provision for its blind of school age either in its own school or in that of a neighboring state.

In our sparsely-settled country, especially west of the Alleghenies and south of Maryland, great efforts had to be made to find the children and still greater efforts to persuade the parents to send them to school; and in many regions similar conditions of parental ignorance exist to-day. In certain states where the amount of the public fund seemed to preclude a special grant for the blind, pupils of this class were brought together in connection with a school for the deaf and dumb, forming "dual schools," as they are called. These institutions could not help being unfair to their blind contingent; for in nearly every such case the blind came to a school already established as a school for the deaf, and under the superintendence of a man especially interested in the education of the deaf; moreover, the number of the deaf pupils usually far exceeded that of the blind. There are still a few of these dual schools, but wherever possible they have been divided into two distinct institutions.

In northern schools the colored blind are educated with the white; in southern schools it is best for the colored to have schools of their own. Both the whites and they prefer this arrangement. The first school for the colored blind was opened in North Carolina in 1869.

All the institutions for the blind were in their very inception schools. The pioneer schools imported literary teachers from Paris and handicraft teachers from Edinburg. At first only the brighter class of pupils came under instruction. Teaching them was easy. They progressed with amazing strides; all was enthusiasm; exhibitions were called for and widely given (Dr. Howe's pupils gave exhibitions in seventeen states); large editions of the various annual reports were exhausted. Soon, however, less bright pupils came to be admitted; then the curriculum of studies began to sober down to the practical and comprehensive one prevailing to-day. Whatever occupation the boy or girl expects to follow after leaving school, it is assumed he will follow it better and thus live more happily and worthily if he has a general education. When, as was formerly the case, the period or term of schooling allowed pupils was shorter than it is now, they were not admitted before the age of eight or nine. Now that kindergarten departments have been universally added to the schools, the pupils are urged to enter at an early age; because experience has shown that

at home these little blind folks are coddled rather than trained, so much so in fact that by the time many of them come to school their natural growth of body and mind has been so interfered with by inaction, that all the efforts of the schools cannot make up for lost time and opportunity. The principle of periodicity of growth has now come to be understood and the importance of applying the proper stimulus at the period most sensitive to it, comprehended. Children with good sight and hearing have got along without kindergarten training, and so have blind children, but of all the useful means of reaching and developing the average blind child none is so effective as the properly-conducted kindergarten. It is not easy to overestimate the importance of hearing as giving the child language and all that this means, song and the joy it brings and the deep feeling it inspires. The practical knowledge of things comes to the blind through the hand, their fingers being veritable projections of their brains. Thus must their hands not only be trained to sensitiveness of touch but to be strong and supple, so that they may, indeed, be dexterous; for as their hands are so are their brains. The kindergarten cultivates ear and heart and hand and brain as nothing else does. Even color is not wholly omitted in kindergartens for the blind. Many see colors, and those who do not love to talk about them and certainly derive some indirect value from considering them. Kindergartens for the blind may be true kindergartens in every sense of the word. A kindergartner of fully-sensed children would miss here only the brightness coming from the untrammelled ability to run and play and observe all that sight brings into view, the quick response of "I know," "I have seen this," and "I have been there." But, then, kindergartens for the blind have as their end and aim this very arousing of the children and the putting of them in touch with their surroundings.

Blind children with kindergarten training are more susceptible to instruction than those without it. Above this department the course of studies in American schools requires from seven to eight years, which means a primary, a grammar, and a high school education, or instruction in object lessons, reading, writing, spelling, grammar, composition, arithmetic, history, physiology, botany, zoology, geology, physics, algebra, geometry, civics, English literature, typewriting, and sometimes Latin and modern languages. Not a few pupils have fitted

for college where they took the regular course with the seeing students, and from which they were graduated usually with distinction. Formerly much of the teaching was oral, which, in many cases, was apt to be more pleasant than profitable to the pupil. Since the general introduction of the embossed text book and tangible writing, the pupil has been forced to depend more and more upon himself, obviously with better results. In fact, the work has been growing more and more practical. The methods of teaching the blind correspond in general to those of teaching other hearing children. The common appliances have but to be raised and enlarged as in maps and diagrams, or simply made tangible, which may be done, for example, by notching an ordinary ruler so that the graduations can be felt. A successful teacher of the seeing readily adapts herself to the instruction of the blind. She learns to write their punctographic systems and to read them with the eye.

Industrial training has been an integral part of the school course from the beginning. Recently educational manual training has been generally introduced as preliminary to the trades. Sloyd has been found especially adapted to the blind. The handicrafts—chair-caning, hammock-making, broom-making, carpet-weaving, and a few others, alone remain of all the many trades taught at one time or another in our schools. Manual occupations of some kind will always be taught, even were it evident that none of them would be followed by the blind as trades; for it is by doing and making that the blind especially learn best. Then, it is essential that they be kept occupied. They are happier so and far better off. In the past, before the introduction of such varieties of labor-saving machinery as the last half century has seen, many of the discharged pupils followed some manual trade and succeeded in subsisting by it. To-day this is less and less possible. The mind itself of the blind is least trammled by the lack of sight; hence some pursuit where intelligence is the chief factor would seem to be best adapted to his condition.

Music, of course, opens up his most delightful field. It is said that all the force of the superintendents of the early schools was required to prevent the institutions from becoming mere conservatories of music. To-day only those pupils pursue music in regular course who have talent for it; but even those are not allowed to neglect other studies for it. It is the experience of the American schools as of the

European, that the profession of music offers to the educated and trained musician who is blind, a field in which he can work his way with least hindrance from his lack of sight, and many are they who have found in it a means of livelihood for themselves and their families. A few in nearly every school fit themselves to be tuners of pianos.

The importance of physical training was early recognized; for the blind have less vitality and more feeble constitutions than the seeing; besides, those of our pupils who most need exercise, are least apt to seek it of their own accord. At first the schools had no gymnasiums; of late years such have been pretty generally added, and systematic physical exercise is carried out.

The American schools for the blind were founded upon embossed books. Dr. Howe states somewhere that the simple reading from embossed print did more to establish the schools in the country than any other one thing. Extraordinary pains were taken by Dr. Howe and his assistants to perfect a system which should be at once readily tangible to the fingers of the blind and legible to the eyes of their friends. The result was the small lower case letter of Dr. Howe, the Boston line print, as it is often called. To this the jury gave preference before all other embossed systems exhibited at the great exhibition of the industry of all nations, in London, in 1852. Backed by such indorsement and all the authority of Dr. Howe the system was rapidly adopted into the American schools. It was then the theory that the blind would be further isolated from their friends if their alphabets were dissimilar. The blind of themselves had devised a writable system—arbitrary and composed of dots or points—one which they could both read and write. But the early superintendents would not countenance it. However, many of the blind failed to read the line letter system; because to read it requires extreme nicety of touch, which all the blind by no means have. Characters composed of points not of lines are scientifically adapted to touch reading. In the 33rd report of the New York institution, Supt. Wm. B. Wait wrote :

Now, which is the more important, that all the young blind should be able to read, thus being made, in fact, like the seeing, or that they should be taught an alphabet which in some sort resembles that used by the seeing, but by doing which only 34 per cent of them will ever be able to read with any pleasure or profit?



This attitude of the New York school was the outcome of statistics gathered from seven institutions, in which 664 pupils were involved, and of experiments made by Mr. Wait with his own pupils, using a system scientifically devised by him, composed of points in arbitrary combination. This was in 1868. At the next convention of the American instructors of the blind, it was resolved "That the New York horizontal point alphabet as arranged by Mr. Wait, should be taught in all institutions for the education of the blind." Not long afterwards a national printing house was subsidized, from which the schools obtained free books, both in the point and in the line systems. In a very few years the point books were in increasing demand, and to-day most of the schools prefer them to those in the line print.

The acceptance of the point was due to several things,— first of all, to its writability and superior tangibility, and secondly, to the extraordinary energy of a few of its advocates. The old world was a long time accepting a writable point system. That of Louis Braille, devised in 1829, though much used by individuals, was not officially adopted into the Paris school where it originated until 1854. In contrast, America devised, printed, spread, and resolved to accept its writable system in less than one-half the time. The benefits of a tangible writable system are vast. It puts the blind more nearly on a par with the seeing, particularly as pupils in school. Its adoption here, next to that of tangible printing, makes obtainable the ideal of American schools for the blind.

Every tangible system has its defects. French "braille" as adopted into England has antiquated abbreviations and contractions for the use of adults; and is involved with rules allowing much bad use, like the omission of all capitals. The New York point as printed also laid itself open to much criticism as to "good use." The American braille, the latest system, combining the best features of French braille and of New York point, was devised by a blind teacher of the Perkins institution. It takes full account of "good use," and those who use the system deem it very satisfactory. In 1892, when the American braille system was adopted into several schools, a typewriter for writing braille was invented, and this was followed by the invention of another machine for embossing braille directly on plates of thin brass from which any number of duplicates could be struck off on

paper.<sup>1</sup> Here was a means of creating a new library at once. But the chief value of the invention lay in the fact that as the machine was simple and inexpensive and could be operated if necessary by a blind man, any institution could have a printing office of its own. And several schools immediately established such offices from which they issued at once whatever their school classes demanded. By co-operating in the selection of the books to be embossed these schools have created in the space of seven years a library of books in American braille than which there is no superior in any system in any country, and they have added an immense amount of music in the braille music notation, which is the same all over the world. A typewriter, and a machine for embossing brass plates in the New York point system, have also appeared.

Excellent embossed libraries exist in all three of the systems. Books in all three may be obtained from the National printing house for the blind at Louisville, Ky., where many of the plates have been made and where most of them are kept. This printing house was subsidized by congress in 1873, and since that time has spent \$10,000 annually in the production of books in the various systems, music scores in the New York point notation, and tangible apparatus, each school ordering from the published list, books, etc., to the value of its quota or part proportional to the number of its pupils. The printing office of the Perkins institution at Boston is the largest private enterprise of its kind in the world. It has been running almost continuously since 1834, and has put forth a splendid list of books in the Boston line print.

The school instruction of the blind is comparatively an easy matter. The work is less of a science than the more difficult task of instructing the deaf and dumb. But if we consider the results, it must be admitted that it is far easier to fit the intelligent deaf to be self-supporting than it is to fit the blind to be so. The world of practical affairs is the world of light; and if the blind succeed in that world it is certainly to their credit. And yet we expect them to succeed in it; and having given them the best preparation we can devise, we find that many do succeed, some brilliantly.

<sup>1</sup> For these inventions, which have been of the greatest recent service to the education of the blind, the work is indebted to Mr. Frank H. Hall, superintendent of the Illinois school.

## CHAPTER XVIII

### DEFORMITY: CRIPPLED CHILDREN AND ADULTS

#### 64. EXTENT, CAUSES, AND CONDITIONS OF DEFORMITY<sup>1</sup>

The most practicable definition which we have discovered is that employed by the education committee of Birmingham, England, whose special sub-committee of inquiry concerning physically defective adults and children took a complete census of the cripples in Birmingham in 1911. For the purpose of this census a cripple was defined as: "A person whose (muscular) movements are so far restricted by accident or disease as to affect his capacity for self-support."

#### CAUSES OF PHYSICAL DISABILITY OF 721 CRIPPLED CHILDREN. BIRMINGHAM, ENGLAND, 1911

	CRIPPLES	
	Number	Per Cent
Tubercular disease . . . . .	285	39.5
Infantile paralysis . . . . .	175	24.3
Rickets . . . . .	73	10.1
Congenital deformity . . . . .	71	9.8
Apoplexy . . . . .	33	4.6
Birth palsy . . . . .	25	3.5
Accident . . . . .	25	3.5
Scoliosis . . . . .	13	1.8
Scattering . . . . .	21	2.9
<i>Total</i> . . . . .	721	100.0

*Census of cripples in Birmingham, England.* No comprehensive census of crippled children has been taken in any state or community in the United States. The one attempt to secure a complete and

<sup>1</sup> By Edith Reeves. Adapted from *Care and Education of Crippled Children in the United States*, pp. 19, 21, 67-69, 88-90. Copyright, 1914, by the Russell Sage Foundation, New York.

scientifically analyzed census of the cripples of a community, not only from hospital records but from many other sources, including school records and those of many charitable organizations, is the census of cripples in Birmingham, England,<sup>1</sup> already mentioned.<sup>2</sup> . . . In this city of 500,000 people were found 1001 cripples over sixteen years of age and 1006 under sixteen years of age. The report of this census printed in October, 1911, is worthy of study by any city in America where even a rough estimate of the number of cripples is to be made. The cripples over sixteen and under sixteen, respectively, were divided by the special committee of inquiry, which included a number of surgeons: first, according to the medical or other causes of their physical difficulties, then according to their ability to work. As already stated, . . . a cripple was defined as: "A person whose (muscular) movements are so far restricted by accident or disease as to affect his capacity for self-support." The working ability of the 1001 cripples sixteen years of age or more is shown by the following table:

WORKING ABILITY OF 1001 CRIPPLES 16 YEARS OF AGE OR MORE.  
BIRMINGHAM, ENGLAND, 1911

STATUS	CRIPPLES	
	Number	Per Cent
Able to go to work under ordinary conditions . . . . .	214	21.4
Able to attend a central workshop . . . . .	145	14.5
Able to do remunerative work at home . . . . .	111	11.1
Unable to do any remunerative work . . . . .	531	53.0
<i>Total</i> . . . . .	1,001	100.0

The following table shows the measure of self-support attained by cripples sixteen years of age or more:

<sup>1</sup> Report of a Special Sub-committee of Inquiry Concerning Physically Defective Adults and Children to the City of Birmingham Education Committee, 1911.

<sup>2</sup> For later censuses see *infra*, Titles 66 and 67. See also the files of the *American Journal of Care for Cripples*, the Reports and Bulletins of the Federal Board of Vocational Education and the Publications of the Red Cross Institute for Crippled and Disabled Men. Several valuable bibliographies have been compiled by Douglas C. McMurtrie.—Ed.



SELF-SUPPORT AMONG 1001 CRIPPLES 16 YEARS OF AGE OR MORE.  
BIRMINGHAM, ENGLAND, 1911

STATUS	CRIPPLES	
	Number	Per Cent
Self-supporting . . . . .	176	17.6
Not self-supporting but did not require help . . . . .	156	15.6
Not self-supporting and did not require help at time of census, but might be expected to need it later . . . . .	144	14.4
Not self-supporting and required help . . . . .	191	19.1
Being maintained in charitable institutions . . . . .	334	33.3
<i>Total</i> . . . . .	1,001	100.0

The following table indicates the working capacity of 697 cripples under sixteen years of age who were not at work :

WORKING ABILITY OF 697 CRIPPLES UNDER 16 YEARS OF AGE WHO  
WERE NOT AT WORK. BIRMINGHAM, ENGLAND, 1911

STATUS	CRIPPLES	
	Number	Per Cent
Likely to be able to go to work under ordinary conditions . .	230	33.0
Likely to be able to attend a central workshop . . . . .	191	27.4
Likely to be able to do remunerative work at home . . . . .	42	6.0
Likely to be unable to do any remunerative work . . . . .	57	8.2
Future capacity could not be estimated . . . . .	177	25.4
<i>Total</i> . . . . .	697	100.0

The printed report of this census does not take up in detail degrees of handicap suffered by the different individuals, how many are unable to stand, unable to walk, and so forth, but it is probable that the original records would give much information of this kind. The committee stated as its conclusion that "all the cripples in the city" (at that time) "not including the 334 cases in the workhouses and infirmaries, would be properly provided for" (though with a very low estimate of the amount necessary for subsistence) "if

"(1) A Central Workshop were provided for 145;

"(2) Work were provided at home for 111 (reasonable remuneration being given in both cases for work done) ;

"(3) Financial assistance were given to 191 (the amount\* required varying from about 2 shillings to 5 or 6 shillings per week)."

A second report of this committee, dated March 29, 1912, recommends that the first need be met by the establishment of a workshop for crippled girls where they may learn general needlework, embroidery, millinery, and tailoring, and receive wages for their work ; also a central workshop for cripples of both sexes doing printing and bookbinding.

*Conclusions.* This study reveals the wide variety of pursuits by which many of the institutions are preparing cripples to earn a part or all of their own support. The opinion is practically unanimous that needle trades, including plain sewing, embroidery, and possibly millinery, solve the problem of wage-earning for large numbers of crippled girls. There is also general agreement that manual training, in addition to its other advantages, helps to fit crippled boys, as well as other boys, for later work which has direct vocational bearing. But no one occupation or group of occupations is regarded as so universally practicable for crippled boys as the needle trades for crippled girls. Only a few institutions have tried any one of the other occupations, and there is much difference of opinion as to the respective merits of the various occupations mentioned in this chapter.

It is not our purpose to advocate here the general acceptance of any one of the occupations under discussion, because, first, the conditions of employment in given occupations as to health conditions of the places of work, hours, wages, and prospects of advance have not been studied in sufficient detail, even for industries as a whole, still less for a specific locality ; second, the ability of different types of cripples to perform the various kinds of tasks imposed by the given occupations has not been determined.

It is obvious that studies for the purpose of securing information about employment conditions are needed for the guidance of young people, whether they are crippled or not. Such studies must usually be within a limited range of territory, sometimes one state, often only a single city, in order to have the fullest value. People who are interested in the vocational training and guidance of crippled children should keep closely in touch with every movement whose aim it is to

secure information which furnishes a basis for a program of vocational training. The pamphlets on particular kinds of employment issued by the Women's Educational and Industrial Union of Boston are excellent examples of such local studies. All general information on the subject helps to simplify the choice of occupations to be taught in institutions for cripples by showing the relative advantages of the different occupations for any young person.

For cripples who remain in any degree handicapped, we need, in addition, knowledge of the particular kinds of work for which each type of cripple is not incapacitated by his physical defect. Studies of this sort made in different localities would furnish a basis of generalization as to how far specific handicaps prove a hindrance or make work possible in a given occupation. Machine work in a factory should be undertaken by a cripple only after he is sure that neither the ordinary movements he must perform, nor those necessary in case of accident, require physical effort of which he is not capable. The experience of cripples graduated from special schools, and the success or failure of individual cripples who have entered different occupations on their own initiative without coming from an institution, would, if gathered together, furnish practical information as to the degree to which certain physical defects hinder or prevent success in different kinds of work.<sup>1</sup>

So long as the two kinds of information mentioned are not available we do not feel prepared to recommend specific trades as better than others for introduction into schools for cripples. If a crippled child has sufficient ability and if necessary funds can be secured for his education in one of the professions where the work is chiefly mental, his problem becomes an easy one; but these cases are rare. For those who lack special mental ability, or for whom it is not possible to secure the money necessary for the undertaking of long years of training, the best opportunities seem to be in the direction of skilled handicrafts, including needle trades of all kinds, commercial engraving, mechanical drawing, the making of articles from wood, reed, or metal, printing, cobbling, manicuring, and photography.

<sup>1</sup>A list of graduates from the Industrial School for Crippled and Deformed Children in Boston, with the wages they are earning and the cause of crippling in each case, is given in the Appendix, p. 235, of Reeves's *Care and Education of Crippled Children in the United States*.

65. TREATMENT AND AFTER-CARE FOR CRIPPLED CHILDREN<sup>1</sup>

The term "cripple" includes cases with such widely varying needs that the institutions for cripples are of several different types. It may be said in general that the crippled children who are maimed or deformed but have no active disease need, first, operative measures which will give them the greatest use of their muscles or make the deformed limbs as nearly straight as possible. After recovery from operations they can in many cases return to their homes, if they go frequently to dispensaries for the adjustment of braces and appliances. These are the children whom it often seems best to educate through day schools for cripples. But children who have had rickets and all those with bone tuberculosis need to live for a considerable time where the general living conditions as to food, air, and sun are the best. These children form the largest proportion of the number cared for in convalescent hospitals, usually located in the country.

There are a limited number of incurable cases cared for permanently in asylum homes. Very few of these cases were hopelessly deformed at birth or otherwise really incurable; most of the so-called "incurables," except a small proportion of badly paralyzed cases, are children who were not treated in time but who, if they had been brought to a surgeon's attention when their difficulty was first discovered, could have been greatly benefited and ultimately enabled to care for themselves to such an extent that residence in an institution would not have been necessary.

That the family home is the best place for well children is now generally recognized. But crippled children are conceded to be a special class, requiring in many cases surgical operations and in most cases very close physical supervision for months, often years. It is admitted to be inevitable that operative cases must go to the hospital, but there is not general agreement as to what should be done with children well enough to leave the hospital who still need careful attention for a long period. Some surgeons insist that parents can not be trusted to adjust a child's brace or even to bring him to the dispensary at the time ordered by the doctor. Some go so far as to say that the treatment of joint tuberculosis through a dispensary benefits the

<sup>1</sup>By Edith Reeves. From *Care and Education of Crippled Children in the United States*, pp. 21-25. Copyright, 1914, by the Russell Sage Foundation, New York.



patient very little, and that such cases must always be looked after in convalescent hospitals with the constant oversight of nurses and physicians. Some of the asylum homes covered by this study provide a degree of medical care which is believed to be greater than the children would receive if they were in family homes. Children may be placed in such homes from the same motives which cause others to be sent to convalescent hospitals.

Children who do not require special medical attention are often placed in the asylum homes chiefly because the persons interested do not know what else to do with them. They believe that places can not be found for crippled children in family homes because they are less attractive to look upon than other children. While not denying the probable truth of this contention in some cases, we must state our belief that a considerable number of the children not requiring medical care who are now in asylum homes for cripples might be placed with families. The New York Home for Destitute Crippled Children was closed as an asylum home for crippled children in the spring of 1913. The building is now used by the Children's Aid Society of New York as a temporary receiving home for children who come into its care. Of the 20 crippled children in the home at the time of the change in its work 19, or all but one, were placed by agents of the Children's Aid Society within one month in homes of relatives. Most of the children will probably live in surroundings much less attractive than those furnished by the home, but the change seems a commendable one. It would be well if other asylum homes would consider carefully the character of the cases they admit and refuse those not genuinely in need of institutional care. This would leave more openings for children who need such care.

Many people interested in work for crippled children, whose viewpoint is not strictly technical, object to sending children to any institution for a period which may extend to five or six years, because children who live so long in an institution atmosphere will become "institutionalized." This objection is somewhat met by the rejoinder that crippled children in family homes are not usually treated as other members of the family are; that they are petted, or in some cases neglected or despised, if they live at home. When this is true, the child has certainly never known the normal family atmosphere; and it is possible that his relation to other people would be more natural

in an institution where the other children are also crippled and no one receives either disproportionate kindness or unkindness. The psychological question as to whether cripples would better associate chiefly with other cripples or in part with normal children is argued strongly on both sides. Some would keep crippled children segregated so that they may not be too sensitive in regard to their disabilities or hurt by seeing sound children do things they can not do. Other people believe that segregated cripples always become abnormal in their point of view; that they need contact with others who associate more actively in the life of the world.

It is not intended to give in this handbook final answer to these difficult questions. It is our conclusion that both systems of organization in the care of convalescent crippled children are needed, especially in very large centers of population. Some children should be kept in convalescent hospitals or homes, preferably in the country, throughout their period of convalescence. Others may quite safely live at home, being cared for physically through a dispensary, and may attend day school classes, either public or private. Each of the larger cities in America should have day school classes for crippled children who are disabled but not diseased, and also for some of those who are still diseased, as with bone tuberculosis, but who have fairly good homes and parents with enough intelligence to follow the instructions of a visiting nurse.

Four sets of facts must be clearly comprehended in choosing between these alternatives for each individual child:

First, What is the physical condition of the child who is being considered? The nature of his physical difficulty and the degree to which he needs supervision by surgeons and nurses are the most vital points. On this question the surgeon's decision must be taken as final and it seems undeniable that a great number of children with bone tuberculosis can be cured as rapidly as possible only with continuous supervision in a convalescent hospital.

Second, What kind of a home has the child, and what kind of care will he receive if he does not go to an institution? This depends upon housing conditions, the sort of food the child will get at home, and the probable intelligence of his parents in carrying out the doctor's orders about fresh air and other conditions necessary for the child's health, as well as upon faithful visits to the dispensary.

Third, What degree of physical supervision will the child have if he remains at home instead of going to an institution? The existence of an efficient system of visiting nursing in connection with the hospital to which the child is taken is the necessary prerequisite for successful dispensary work. When there are visiting nurses many children may stay at home who would otherwise need to go to a convalescent hospital.

Fourth, What are the standards of the institution to which the child may be sent? Those who fear that residence in an institution for cripples would unfit the child to make his way in the world as well as if he stayed in a family home, ought to consider with care certain definite points. The number of children in the entire institution should be learned; if there is a cottage system, the number of children in each cottage, the number of beds in each, and the amount of space between them; how many sit at each table in the dining room and whether the chairs, dishes, and utensils create a homelike atmosphere; whether or not there is uniform dress. These details are not given as absolute criteria as to the quality of the institution, but are suggestive pointers. The vital element is not dependent alone or chiefly upon these material details, for it is the personality of the employes which after all determines the elusive thing called "atmosphere." Some of the hospitals gave the visitor an impression of greater homelikeness than did some of the places called "homes."

## 66. SURVEY OF THE CRIPPLES OF CLEVELAND<sup>1</sup>

### *Number and Ratio of Crippled Persons*

The number of cripples of all ages found in Cleveland, in an enumeration by a house-to-house canvass extending over a period of one year from October, 1915, to October, 1916, was 4186. As the estimated population of Cleveland for 1916 was 674,073, this gives a ratio of about six cripples to each 1000 inhabitants.

<sup>1</sup>From *The Education and Occupations of Cripples, Juvenile and Adult: A Survey of All the Cripples of Cleveland, Ohio, in 1916, under the Auspices of the Welfare Federation of Cleveland*, by Lucy Wright and Amy M. Hamburger. Publications of the Red Cross Institute for Crippled and Disabled Men, Series 2, No. 3, pp. 18-21.

In the Massachusetts state census of 1905 a total of 17,134 persons were enumerated as lame, maimed, and deformed. This gives a ratio for the three groups of 5.7 to each 1000 of the population. The group maimed was, to be sure, made to include loss of one eye and a few other defects not included under the Cleveland definition, but even so, the correspondence of the two ratios is interesting.

In matters of education and employment the essential problems of crippled condition and of the individual must be worked out on the basis of what the cripple has to offer the community rather than on the basis of economic need or lack, and from the point of view of equalizing his chances for taking an active part in life. These problems can best be reckoned with as an integral part of our general educational and industrial life, but require a technical knowledge and experience on the part of those who administer the work if the chances of individuals are to be effectively safeguarded. In this sense educational and industrial needs are the essential points of interest in our study, and from such a point of view the eight principal conclusions to be drawn from it may be briefly summarized as follows:

1. The problem of the crippled population is first of all a problem of child welfare. Although adults were more numerous than the children—more than three times as many—a fourth of the crippled population were not only under the age of fifteen at the time of survey, but a third of the adult cripples became disabled while under the age of fifteen. Thus a total of forty-nine per cent of the whole group were disabled in childhood.

2. As a children's problem it is essentially a medical-educational one. The nature of the causes and the form of the crippled condition, the consequent length of time and well-known conditions of life and treatment needed to minimize the handicap require that provision for medical and educational care be planned in close relation to each other.

3. The varieties of muscular and skeletal defects are so many, and crippled persons, like normal ones, have so great a variety of aptitudes, that no single or simple means will satisfactorily provide for their vocational preparation. Their needs must, therefore, be met as a part of a general, liberal program for prevocational education.

4. With lively appreciation of the good work of existing agencies, it must still be said that special provisions for the care of crippled children in Cleveland are inadequate, especially in their equipment



for correlating medical and educational care and for fitting crippled children for working life. Therefore, new or enlarged means of meeting this need should be provided.

5. The problem of the crippled population is a problem of adults in working life. The number who are over sixty years of age is small, the number of those who became crippled after sixty is still smaller. But the number becoming crippled during working life by accident, especially of men, is large, and the number crippled from all causes very large.

6. Cripples in Cleveland, under heavy physical handicap, in direct competition with others, and without special favor of the community, have reached and held remarkable positions of economic independence. Their capacity, occupations, and earnings point on the whole to varied and normal tendencies of life.

7. The great variety of forms of handicap and notable difference in aptitudes and experience prior to becoming crippled point to the need of a most flexible system of service to those among cripples who cannot make their way unaided, but who may be benefited by special plans for their rehabilitation and re-education. This plan may well be a part of an adequate system for vocational training for all citizens.

8. The increased care with which, under existing laws, employers tend to avoid the added risks of liability in employing physically handicapped labor, place the handicapped, however competent they may be, at an increasing disadvantage except at times and in places where other labor is difficult or impossible to secure.

These general conclusions and the facts in detail upon which they are based disclose particularly two definite directions in which community effort is needed in order to equalize chances for cripples:

First, adequate provision should be made for the medical-educational care of crippled children.

Second, measures should be planned for safeguarding the interests of crippled adults.

To carry out the work of a program of this kind a central bureau or federation is recommended that represents not only existing agencies especially instituted for cripples but all the forces touching their lives most closely—medical, educational, industrial.

One important question underlying any conclusions and any plans that may be made as a result of the Survey is whether there are

workers suitably equipped for the lay part of the program, especially for work with adults.

To be of immediate service we need at this time most of all workers of genuine skill in securing medical, social, and industrial estimates of handicapped individuals in season to be of service to them and to the community. We need workers who have acquired wisdom enough to lead in an educational campaign that will benefit all cripples alike in times of peace or war by teaching us when to remember and when to forget that a man has a physical handicap. To classify our fellow-men by a single aspect of physical disability is superficial and futile. If the Survey drives this point home it will do a much-needed service.

## 67. ECONOMIC CONSEQUENCES OF PHYSICAL DISABILITY<sup>1</sup>

### *A Case Study of Civilian Cripples in New York City*

One of the aims of the investigation was to find what light the story of a cripple would throw upon the problem of industrial readjustment. Had he been re-employed in his former occupation, or had he found a new one? If still out of work, what were the obstacles to his employment? It was quite clear at the outset that the infinite variety of experiences encountered would make it impossible to classify, tabulate, and array them in such a way as to arrive at formulae for dealing with cripples in which the only variant would be the nature of the handicap. The stories of men who have succeeded in spite of handicaps, and of those who have not, are merely suggestive of what may be attempted for others. Each case for readjustment will be a problem in itself in which a man's education, his previous industrial experience, his tastes and aptitudes, the nature of his injury and other handicaps, the conditions in industry in general, or in a particular trade, and a multitude of other factors will affect the solution.

There are evidences that there is a feeling of obligation on the part of many employers to take back upon the pay-roll men who have been injured in their employ. This is the avowed policy of several firms, particularly when they feel that the men have been fair in the settlement of their compensation. How far the return of an injured man

<sup>1</sup>From *The Economic Consequences of Physical Disability; A Case Study of Civilian Cripples in New York City*, by John C. Faries, Ph.D. Publications of the Red Cross Institute for Crippled and Disabled Men, Series 1, No. 2.

to his former occupation and wage is due to consideration on the part of the employer, and how far to unimpaired efficiency, it would be difficult to say. In an investigation made in Cincinnati the claim was made by employers that when they re-employed their injured men the "man ceased to be a valuable employee after he became aware of their moral obligation toward him. When the debt was reversed and employment was given to a man for whose handicap they were not responsible, gratitude and the dreaded difficulty of obtaining another position often made such employees more faithful."

Some men who had been taken back by their former employers expressed some fear as to the security of their positions and thought they would be discriminated against. It would seem that such an uncertainty ought to spur a man to demonstrate his ability to make good in spite of his handicap. Such a spur might easily prove to be the salvation of a crippled man.

The ninety-two leg cases involved the largest proportion of amputations and the largest proportion of unemployment. Fifty-seven were idle and sixty-five had suffered amputations. Of those losing a leg, only three had returned to work for their former employers, as follows: One was a bill-poster and now folds paper at a lower wage; one was an upholsterer and with the aid of an artificial leg is back at the same work at the same wages; the third, who lost his leg while operating a wire-pulling machine, expected to be re-employed at a different operation, but probably at the same wages. Nineteen more of those losing a leg had found employment of one kind or another.

Amputations are great economic levelers. As will be seen by the following list of employments before and after amputations, the skilled electrician, the engineer, the baker, are all reduced to the level of unskilled labor:

HANDS		FEET	
<i>Before</i>	<i>After</i>	<i>Before</i>	<i>After</i>
switchman	machinist's helper	garment worker	unknown
baker	peddling pretzels	checker	timekeeper
machine hand	studying	deck hand	assistant cook
baker	stableman	longshoreman	elevator operator
		unknown <sup>1</sup>	salesman

<sup>1</sup> Case of long standing.

ARMS		LEGS (Continued)	
<i>Before</i>	<i>After</i>	<i>Before</i>	<i>After</i>
engineer	helper in storeroom	teamster	janitor work
machine hand	same	butcher	same
machine hand	messenger boy	painter	employing painter
driver	watchman	dental mechanic	same
electrician	watchman	helper on wagon <sup>1</sup>	peddles gum
machine hand	delivery boy	haberdasher	jitney 'bus
ferry hand <sup>1</sup>	clerk	machine hand	by same employer
unknown <sup>1</sup>	watchman	auto mechanic <sup>1</sup>	repair shop
		brakeman	storekeeper
		upholsterer	same
		student	clerk
		track inspector <sup>1</sup>	peddler
		coal heaver <sup>1</sup>	peddles pencils
		too young <sup>1</sup>	wireless operator
		too young <sup>1</sup>	newsboy
		too young <sup>1</sup>	office boy
LEGS			
peddler	same		
laborer	same		
bill-poster	folder of paper		
baker	tends shop		
machinist	candy store		
student <sup>1</sup>	cashier		

An accident may destroy at one blow the chance to exercise that skill which is slowly acquired and which serves to raise a man above the level of his plodding fellows. A mental training which needs the cunning of a hand for its expression is no longer an economic asset when the hand is gone, unless the same training can find expression in some other way. This means that if the man is to continue to have the benefit of his old knowledge and skill either something capable of giving expression to his skill must take the place of his hand, or his knowledge must be turned to account in some other way than by the use of his hand. Mechanical devices to take the place of a hand cannot be more than clumsy instruments to do the bidding of a trained mind. In cases where the hand plays a lesser part in translating the knowledge of the mind into action some prosthetic device may be a useful substitute.

The opinion among employers who were interviewed was that there were many occupations that might be filled by leg cripples who had the use of their hands. But it is quite essential that they get about with some facility. Many employers refuse to hire men who use crutches but do not object to men with artificial limbs. The possession of an artificial limb, therefore, seems to be quite essential to the

<sup>1</sup>Case of long standing.



employment of a leg cripple. And the success of such an appliance depends upon a healthy stump, which in turn depends upon skilful surgery and general physical health.

### *Apparent Needs of Cases Studied*

An effort was made in each case to appraise the man's needs. Each investigator was asked to indicate upon a card which was filed with the case story what he thought the man needed. In 200 cases no need was indicated, inasmuch as the man seemed to have made the readjustment himself or needed no outside assistance in making it, while 161 were thought to need some care.

	NEEDING HELP	NEEDING TRAINING	HOPEFUL FOR TRAINING	NEEDING FINANCIAL AID	NEEDING ARTIFICIAL LIMB	NEEDING EMPLOYMENT	NEEDING MEDICAL TREATMENT
Upper limb injuries							
Fingers . . . . .	41	34	18	1		19	3
Hands . . . . .	22	20	11		6	13	1
Arms . . . . .	20	18	10		11	10	2
<i>Totals . . . . .</i>	83	72	39	1	17	42	6
Lower limb injuries							
Toes . . . . .	3	3	1			1	
Feet . . . . .	13	11	4	2	3	8	
Legs . . . . .	59	42	16	4	21	40	3
<i>Totals . . . . .</i>	75	56	21	6	24	49	3
Miscellaneous . . . . .	3	1	1	1			3
<i>Grand Totals . . . . .</i>	161	129	61	8	41	91	12

The number of men who were thought by the investigators to need either re-education for their old trade, or training for a new occupation, was 129. When each case was carefully considered in the light of the man's age, his education, the kind of work he had done, his attitude towards training, his knowledge of English, etc., the number was narrowed down to 61 who seemed to be hopeful candidates

for such training as the Institute might be equipped to do. Probably not all of these could or would enter trade classes, but from this number there could probably be selected a number of candidates who would afford good material for the educational experiment proposed.

Only 8 were reported as needing financial relief other than assistance in procuring artificial limbs. There were 41 who seemed to need help of that kind.

Some 12 cases seemed to require medical treatment before they would be fit for employment. These 12 are apart from a considerable number who are actually under treatment at the present time.

The number needing employment was 91. The discrepancy between this number and the number reported as unemployed (132) is due to the fact that some 31 were undergoing treatment or were, at the time, physically incapacitated for work. Several others had work in view or would undoubtedly find employment themselves and a few were being cared for in one way or another.

These 91 men present an immediate problem of employment. Many of them are in dire need of the returns of labor and many of them are drifting into the shoals of chronic idleness and dependency. Society must either provide some adequate help to enable them to become self-supporting or ultimately assume the burden of their non-productive lives. Some of them can be directed by wise advice into some line of activity in which they can be self-supporting; some can be placed in industry without special training; help in securing proper artificial limbs will enable some to obtain work; some can be trained by a short vocational course to become wage-earners again; some should be advised to seek a thorough trade training in some approved school. The question is largely one of a study of the individual case and the choice of proper means for his industrial rehabilitation.

## 68. POLICY IN DEALING WITH DISABLED CIVILIANS<sup>1</sup>

The rehabilitation for self-support of disabled soldiers and sailors has attracted wide public interest. As we now enter upon the reconstruction period there arises the question as to how far the policies

<sup>1</sup> By Douglas C. McMurtrie, Director of the Red Cross Institute for Crippled and Disabled Men. From "Future Policy in Dealing with Disabled Civilians: Some Conclusions from Experience," *Medical Record*, January 25, 1919. Copyright, William Wood & Company.

developed in dealing with military cripples can be carried over for the benefit of disabled civilians. Some results have already been accomplished in the reeducation of industrial cripples. What conclusions helpful to the formation of future state or national policy have been drawn?

The first conclusion from experience is that rehabilitation of the disabled does not consist solely in vocational education. It is as largely a piece of social work as it is educational. The chief problem of any individual disabled man is a character problem. The chief necessity is to inspire his ambition, to overcome the tendency to inertia, combat the psychological conditions which inevitably develop with a permanent injury, and to inspire perseverance to continue the effort at rehabilitation when once begun.

Successfully to deal with the disabled men requires a special understanding of their difficulties and extraordinary patience on the part of directors, advisers, teachers, or social workers. The average disabled man, and particularly the civilian cripple, who enters on a course of training, is likely to abandon it in discouragement at the end of the first week. The average teacher who deals with him is likely to become disgusted before that time and be perfectly willing to let him abandon the course in the sure belief that the man is not worth bothering about. Yet those who have dealt with cripples understand that this is not the case, and that with the rule of "try, try again" success can be attained in the great majority of instances.

Although I heartily believe in the restoration of a disabled man to a place in the community as a normal being, rather than committing him to a special colony for cripples, I am convinced that the most effective agency of rehabilitation is a special school for the physically handicapped. In such a school every facility is designed for disabled pupils and all members of the staff are originally picked for aptitude in dealing with cripples, and their cumulative experience makes them more skilled in doing so. All the members of the staff of the Red Cross Institute testify that difficulties they considered insuperable in the first twenty men dealt with are now minimized by experience.

A special school for the disabled can have its own social service staff, an attending physician to keep watch on the condition of the men from the medical or surgical viewpoint, and a staff of teachers fully familiar with the special requirements of the work.

Foreign experience in rehabilitation seems to point most clearly to the need of special schools. Practically all the schools of reeducation in France have been organized for war cripples. In Great Britain, where the existing facilities of technical institutes have been largely availed of, it has been found in experience necessary to start special classes or sections for the disabled, as the men did not mix successfully with the regular pupils. Even in Canada, with the exception of the interesting placement in apprenticeship which has been done, the most successful reeducation has been in schools given over to become special institutions for disabled soldiers.

These considerations lead me to believe that miscellaneous introduction of disabled persons into a general system of vocational education would be unwise, but that the establishment of special institutions for the disabled would be most highly desirable.

The mere offer of vocational rehabilitation advantages does not by any means solve the problem of the idle disabled men, and it cannot safely be assumed that any considerable number of injured men in the United States will take advantage of rehabilitation opportunity, unless there is very radical readjustment of present state legislative provisions.

Our experience at the Red Cross Institute for Crippled and Disabled Men in New York very clearly illustrates this point. For over a year this school of reeducation has been in operation. It offers a reasonable variety of subjects of instruction, six in all: mechanical drafting, moving-picture operating, oxyacetylene welding, printing, the making of artificial limbs, and jewelry work. All its advantages are free, yet it has at the present time less than forty pupils.

There are in New York City, however, according to statistics, thousands upon thousands of cripples who would profit by reeducation. What is the reason they do not take advantage of the opportunity?

The answer is found in the other influences upon the disabled man. The most potent of these is the theory and practice of workmen's compensation. Practically every compensation case that has ever come to the Red Cross Institute has come upon the day compensation expired. For one year, for two years, or for four years, the man had existed in idleness, drawing compensation, and when this support was cut off he cast about and became interested in rehabilitation. When we come to examine the compensation provisions of the various States



we find that they encourage idleness, in that the compensation payments are adversely affected by any improvement in earning capacity.

At a recent conference there was discussion of who should meet the cost of rehabilitating the disabled men. As far as the industrial cripple is concerned, so soon as the movement and its philosophy shall have gained some headway there should be no cost whatever. Merely by a reapportionment of funds already provided, effected through an understanding of the possibilities of rehabilitation, there will be a net cash saving rather than increase in expenditure. I can more clearly illustrate the possibility of this by statement of a typical case than by much theoretical elaboration. A worker in Massachusetts was injured by a fall while working inside a submarine, and his hand became permanently crippled. In due course his compensation rate was determined, and he was referred to the insurance carrier to be paid ten dollars a week for a long period, with a maximum total payment of four thousand dollars. Since the disability was manifestly permanent the insurance company wrote the case off their books as a four thousand dollar loss and transferred that amount to reserve to cover the weekly payments. After the compensation had been paid for nearly a year a new official of the insurance company began looking over the list of men to whom the company was paying compensation. His attention was directed to the man in question, and the latter was requested to call at the office of the company. The case was, like many thousands of others, susceptible of rehabilitation for self-support, so the insurance company official put a proposition to the man in very frank terms. "I believe that you can be trained to earn a good living. I want you to understand very clearly, however, that this proposal is to the financial advantage of the company, but I also believe it is to your advantage as well. A total income of ten dollars a week is not very attractive to you, and you would probably rather return to work at a good wage than remain idle. If you will consent, the company will send you to a school of reeducation and see if we cannot get you back on your feet in good shape."

The injured man consented to the proposal, and the company sent him to the Red Cross Institute in New York. They began to pay him not ten dollars a week as required by law, but forty dollars a week, twenty to him in New York and twenty to his wife at home. The company also paid liberally his traveling expenses in both directions.

In the period of eight weeks he was reeducated in oxyacetylene cutting and welding and returned home. He is now making not only a satisfactory wage, but twice as much as he had ever earned before the accident took place.

In the whole transaction every party at interest was benefited. The man was advantaged in that his general living standard was distinctly raised, and the necessity of working for his living could not be considered as a hardship. The company paid less than five hundred dollars for his rehabilitation, and this expense, in conjunction with the five hundred dollars already paid in weekly compensation during the first year of idleness, made a total for the case of one thousand dollars. They were thus enabled to charge three thousand dollars of profit to the account of profit and loss. Had the course of training been earlier begun, there would have been saved five hundred dollars more. The community was infinitely the gainer in that the man, formerly an unproductive consumer, became a useful producer instead. The community further gained in the elimination of the disabled man from the category of a prospective dependent, because while compensation might have taken care of him in a very insufficient way during the period the payments ran, there would have come a time when compensation ceased, and then he would have been in a desperate economic status indeed—confirmed in habits of idleness, untrained for skilled work, and without any source of support.

It is perfectly clear that if State compensation authorities will alter their practice so as to encourage rehabilitation rather than discourage it, if casualty insurance companies will see the path of true economy (and they are coming to this at the present time), there will be no cost in the rehabilitation of the industrial cripple but rather a great economic and social saving. The case just cited throws interesting light\* on the question raised as to whether future legislation should embrace in its scope accident cripples not under protection of workmen's compensation laws, congenital cases, and disease cripples. If any legislation is to be passed these classes should most emphatically be included because they constitute the cripples who are most in need of assistance. As has been shown, with developments which can confidently be expected within the next couple of years, the industrial cripple will not be in much need of financial assistance. It is the other cripples who contribute most largely to dependency and who involve

the greatest community expense. Their restoration is desirable in the extreme, because the elimination of dependency due to physical handicap will lift a colossal burden from the agencies of philanthropic relief.

It has been already stated that rehabilitation is intimately related to workmen's compensation. So far as the industrial cripple is concerned the administration of rehabilitation should be coincident with that of compensation. It has not as yet been possible conservatively to draw definite conclusions regarding the exact provisions of compensation laws which should be altered. It seems clear, however, that one suggestion can come from the experience of all the belligerent nations in providing for the pensions of disabled soldiers. It has been evident from the first efforts at reeducation that pensions must be paid for physical injury only and not be prejudiced by increase of earning capacity and subsequent restoration to self-support. Unless this provision is made it is almost impossible to persuade men to undertake reeducation. A man does not like to lose one definite advantage, even though there is a greater advantage in store. All the military pensions, therefore, are fixed, and a man may earn twice as much after his injury as before, and yet his pension will be paid to him, just the same. On the other hand, we have learned that the scale of pensions is of comparatively little importance if adequate rehabilitation advantages are offered. In fact, a fairly low pension scale may be a means of character building and encouragement, whereas an extremely high pension scale may tend to demoralization and prove an encouragement to idleness.

It is possible that in the field of workmen's compensation there may be a small statutory award for specific injury, and there may then be extended in addition opportunity of reeducation at the expense of the State fund or insurance carrier. If an earnest attempt at rehabilitation is made by the man, and for one reason or another he fails, there might then be a further discretionary award by the State compensation authority making the total payment as great or preferably greater than called for by the present scale. At any rate, the rehabilitation and compensation of industrial cripples are so intimately related as to be almost impossible of administrative division.

In rehabilitation of civilian cripples what are the financial circumstances involved? It is my belief that the cost of rehabilitation will average between two hundred and three hundred dollars per case,

but this is, of course, highly economical, because when a man is rehabilitated his economic problem is solved for good and he is no longer a charge in any sense of the word.

The expense of rehabilitation will be apportioned about as follows:

	PER CENT
Salaries of administrative and teaching staff . . . . .	20
Maintenance of pupils during training . . . . .	50
Rent, or depreciation and interest on capital investment in building . . . . .	10
Depreciation and interest on equipment . . . . .	10
Supplies and material . . . . .	10

You will note that maintenance is the large item. If you take the average cripple met on the streets and offer him the finest course of reeducation in the world, it is unlikely he will be able to take advantage of the opportunity. Though he is earning seven dollars a week, and there is prospect of increasing his income to thirty dollars weekly, it will be impossible for him to take the course offered, because he will starve meanwhile. This was one of the first lessons learned in starting out to rehabilitate disabled civilians. There is necessary for the average case some form of living allowance, and if the same governmental principle is to be applied to the crippled civilian as is now applied to the disabled soldier, this is properly a charge upon the rehabilitation organization. For the industrial cripple, of course, this maintenance may come out of compensation reserves if intelligent adjustment of practice and legislation is made, but for the general accident, disease, or congenital cripple, no such source of support is available. Any provision of rehabilitation would be, in the mind of the public, a failure unless maintenance were provided for.

In the table just presented there has not been taken into account the medical, social service, and follow-up attention which should likewise be encouraged.

Statistics show the number of disabled persons to be very great. Of course, a very large proportion of these men, particularly those with any character or initiative, readjust themselves industrially and get back in the work of the world in such a way that their employers hardly think of them as cripples. A large number can satisfactorily be put back into employment through provision of special and expert placement facilities. An essential link in the rehabilitation



program is the provision of special placement bureaus for the disabled. The Red Cross Institute in New York has operated for the past year such a bureau, and has found that many men need only vocational guidance and intelligent search for a suitable job in order to have their problem solved. There has been already delegated to the United States Employment Service of the Department of Labor a vast placement enterprise. This service should be encouraged to develop in every large center of population a special bureau for the physically handicapped. Such placement work cannot satisfactorily be done through the ordinary public employment office, but when done carefully and thoroughly is certainly a public economy.

### 69. REHABILITATION OF THE INJURED WORKER<sup>1</sup>

In the opinion of those familiar with the problems involved there are five stages in the treatment and rehabilitation of persons seriously injured by industrial accident, if they are to be restored to industry as self-supporting and self-directing workers and citizens. No sharp line of demarcation can be drawn between these successive periods; as, for example, the periods of surgical treatment and convalescence and mental adjustment. Yet they represent well-recognized stages in care and treatment.

- I. A Period of Surgical Treatment.
- II. A Period of Convalescence and Mental Adjustment.
- III. A Period of Training.
- IV. A Period of Placement.
- V. A Period of Physical Adjustment to Demands of Position.

#### *A Period of Surgical Treatment*

It is not the province of this report to discuss ways and means of surgical treatment, but rather to suggest that tremendous strides have been made in recent years in orthopedic surgery and the fitting of artificial limbs. These results are of sufficient importance to justify the conclusion that, given correct surgical attention and after-treatment, only a small portion of injured workmen cannot be restored to industry.

<sup>1</sup>From "Special Report of the Board of Education relative to Training for Injured Persons" (pp. 20-24), Frederick P. Fish, Chairman. Commonwealth of Massachusetts, House of Representatives, Publication No. 1733. Boston, 1917.

*A Period of Convalescence and Mental Adjustment*

One of the greatest needs at this stage of recovery is some organized method, both as to material and as to persons whose task it shall be, to bring the information already available regarding possibilities of training and future work to the convalescent in a way which he can understand.

*A Period of Training and of Placement*

The maimed man frequently has difficulty in getting employment because of the unwillingness of employers to trouble with the awkwardness and lack of skill exhibited by such an employee. Given a job, he frequently has difficulty in holding it because of the lack of patience on the part of the foreman and his own discouragement. Frequently it is a case of successively getting and losing several jobs, all of which tends to add to his discouragement. A number of volunteer agencies have worked on the problem of placement and have found that there are two parts in their work :

1. An education of the injured workman, to give him courage and belief that he can perform a useful wage-earning service.
2. An education of the employer, which will tend to make him willing to put up with the necessarily awkward and unskilled performance of new types of work until the injured worker has become adjusted to his new conditions.

Establishing a sympathetic and helpful contact point is one of the most important parts of their work. It is also necessary to follow up the injured worker for the purpose of tiding him over periods of discouragement and helping him to keep a strong faith in his ability.

Aside from the surgical treatment and compensation, assistance to the injured worker outlined above is now rendered only by volunteer agencies, and in no way meets State-wide conditions.<sup>1</sup>

<sup>1</sup>There are a variety of industries in which there are operations which can be profitably performed by the handicapped. The following list was compiled by Miss Grace S. Harper of Boston for the Canadian Commission on Military Hospitals and Convalescent Homes: Boot and shoe industry; stitching, vamping, buttonhole operating, eyeletting, tip repairing, etc. These processes required the use of one limb and full use of both hands. Watchmaking; most of the processes in watchmaking are sedentary. Telephone operating. Commercial telegraphy. Jewelry manufacture. Machine stitching in all trades. Printing industry. Monotyping. Linotyping. Knitting industry. Leather goods manufacture. Tailoring.

*A Period of Physical Adjustment to Demands of Position*

This period presents the problem concerning which there is little helpful experience to guide in formulating plans for extensive future development. It is undoubtedly true that many employers have in the past undertaken to find employment for people injured in their employ. In most instances concerning which we can learn the subsequent employment has frequently been of a lower grade and at a lower wage. The proposal for training them implies the possibility of restoring a considerable number of people to industry at a wage as nearly as possible equal to that earned prior to injury. It is understood by all familiar with the problem that it may be necessary for such a workman to be provided with special tools, adaptations of tools, or other changes in physical surroundings, such as adjustable stools, benches, or special equipment provided for his work or which he may provide for himself. It is probable that in the initial stages at least his output would be considerably below that of the person not suffering handicaps. In view of these conditions it is clear that attention must be given, through an agency provided for this particular purpose, to securing the co-operation of a large number of employers in providing work for the specially trained, handicapped workmen, whether or not they may have been injured in such employment.

Given the willing employer, there is a further need of willing foremen and a co-operative effort in the workroom itself. We may anticipate considerable discouragement on the part of the worker in readapting himself to industrial demands, and no small exercise of will-power to overcome discouragement and a chronic self-pity. For these reasons the services of specially qualified social workers are probably necessary.

THE FEDERAL BOARD OF VOCATIONAL EDUCATION<sup>1</sup>

*Cooperation between the Federal Government and the States.* The Smith-Hughes Act provides a scheme of cooperation between the Federal Government and the States for the promotion of vocational education in the fields of agriculture, trade, home economics, and industry.

Under this act the Federal Government does not propose to undertake the organization and immediate direction of vocational training in the

<sup>1</sup>From "A Statement of Policies," Federal Board for Vocational Education, *Bulletin No. 1*, pp. 7, 9. Government Printing Office, Washington, 1917.

States, but does agree to make from year to year substantial financial contribution to its support. It undertakes to pay over to the States annually certain sums of money and to cooperate in fostering and promoting vocational training and the training of vocational teachers. The grants of Federal money are conditional, and the acceptance of these grants imposes upon the States specific obligations to expend the money paid over to them in accordance with the provisions of the act.

This cooperation of the States with the Federal Government is based upon four fundamental ideas: First, that vocational education being essential to the national welfare, it is a function of the National Government to stimulate the States to undertake this new and needed form of service; second, that Federal funds are necessary in order to equalize the burden of carrying on the work among the States; third, that since the Federal Government is vitally interested in the success of vocational education, it should, so to speak, purchase a degree of participation in this work; and, fourth, that only by creating such a relationship between the central and the local Governments can proper standards of educational efficiency be set up.

The guiding principle of the vocational education act—and it can not be too strongly emphasized that this principle applies to every phase of activity under that act—is that the education to be furnished must be under public supervision and control, and designed to train persons for useful employment, whether in agriculture, trade and industry, or home economics.

To the extent that it is subsidized by the Federal Government under the Smith-Hughes Act, vocational training must be vocational training for the common, wage-earning employments. It may be given to boys and girls who, having selected a vocation, desire preparation for entering it as trained wage earners; to boys and girls who, having already taken up a wage-earning employment, seek greater efficiency in that employment; or to wage earners established in their trade or occupation, who wish through increase in their efficiency and wage-earning capacity to advance to positions of responsibility. No academic studies can be supported out of Smith-Hughes money.



PART IV. THE PROBLEM OF POVERTY

CHAPTER XIX

SURVEYS OF THE CONDITIONS AND CAUSES OF  
POVERTY

70. POVERTY IN EAST LONDON<sup>1</sup>

The area dealt with is composed of the following unions of parishes or registration districts, containing in all about 900,000 inhabitants:

East London—	
Shoreditch . . . . .	124,000
Bethnal Green . . . . .	130,000
Whitechapel . . . . .	76,000
St. George's-in-the-East . . . . .	49,000
Stepney . . . . .	63,000
Mile End Old Town . . . . .	112,000
Poplar . . . . .	169,000
Hackney . . . . .	186,000
<i>Total</i> . . . . .	<u>909,000</u>

The eight classes into which I have divided these people are:

- A. The lowest class of occasional labourers, loafers, and
- B. Casual earnings—"very poor." [semi-criminals.
- C. Intermittent earnings
- D. Small regular earnings } together the "poor."
- E. Regular standard earnings—above the line of poverty.
- F. Higher class labour.
- G. Lower middle class.
- H. Upper middle class.

The divisions indicated here by "poor" and "very poor" are necessarily arbitrary. By the word "poor" I mean to describe those who have a sufficiently regular though bare income, such as 18s to 21s per week for a moderate family, and by "very poor" those who from

<sup>1</sup>From *Life and Labour of the People in London*, by Charles Booth. First Series: Poverty, Vol. I, East, Central and South London, pp. 28-72. Macmillan & Co., Ltd., London, 1902.

any cause fall much below this standard. The "poor" are those whose means may be sufficient, but are barely sufficient, for decent independent life; the "very poor" those whose means are insufficient for this according to the usual standard of life in this country. My "poor" may be described as living under a struggle to obtain the necessities of life and make both ends meet; while the "very poor" live in a state of chronic want. It may be their own fault that this is so; that is another question; my first business is simply with the numbers who, from whatever cause, do live under conditions of poverty or destitution.

Before proceeding further with comparisons of one district with another, I will describe the classes and their manner of living so far as it is known to me. And here I may say that in addition to the information obtained from the School Board visitors, for the division of the population into the eight classes, I have been glad, in describing the lives of these people, to use any available information, and have received much valuable assistance from relieving officers, rent collectors, officers of the Charity Organization Society, and others.

*Class A.* The lowest class, which consists of some occasional labourers, street-sellers, loafers, crimpals, and semi-criminals, I put at 11,000, or  $1\frac{1}{4}$  per cent of the population, but this is no more than a rough estimate, as these people are beyond enumeration, and only a small proportion of them are on the School Board visitors' books. The numbers given in my tables are obtained by adding in an estimated number from the inmates of common lodging houses, and from the lowest class of streets. With these ought to be counted the homeless outcasts who on any given night take shelter where they can, and so may be supposed to be in part outside of any census. Those I have attempted to count consist mostly of casual labourers of low character, and their families, together with those in a similar way of life who pick up a living without labour of any kind. Their life is the life of savages, with vicissitudes of extreme hardship and occasional excess. Their food is of the coarsest description, and their only luxury is drink. It is not easy to say how they live; the living is picked up, and what is got is frequently shared; when they cannot find 3d for their night's lodging, unless favourably known to the deputy, they are turned out at night into the street, to return to the common kitchen in the morning. From these come the battered fig-

ures who slouch through the streets, and play the beggar or the bully, or help to foul the record of the unemployed; these are the worst class of corner men who hang round the doors of public-houses, the young men who spring forward on any chance to earn a copper, the ready materials for disorder when occasion serves. They render no useful service, they create no wealth: more often they destroy it. They degrade whatever they touch, and as individuals are perhaps incapable of improvement; they may be to some extent a necessary evil in every large city, but their numbers will be affected by the economical condition of the classes above them, and the discretion of "the charitable world"; their way of life by the pressure of police supervision.

It is much to be desired and to be hoped that this class may become less hereditary in its character. There appears to be no doubt that it is now hereditary to a very considerable extent. The children are the street arabs, and are to be found separated from their parents in pauper or industrial schools, and in such homes as Dr. Barnardo's. Some are in the Board schools, and more in ragged schools, and the remainder, who cannot be counted, and may still be numerous, are every year confined within narrowing bounds by the persistent pressure of the School Board and other agencies.

While the number of children left in charge of this class is proportionately small, the number of young persons belonging to it is not so—young men who take naturally to loafing; girls who take almost as naturally to the streets; some drift back from the pauper and industrial schools, and others drift down from the classes of casual and irregular labour. I have attempted to describe the prevailing type amongst these people, but I do not mean to say that there are not individuals of every sort to be found in the mass. Those who are able to wash the mud may find some gems in it. There are, at any rate, many very piteous cases. Whatever doubt there may be as to the exact numbers of this class, it is certain that they bear a very small proportion to the rest of the population, or even to Class B with which they are mixed up, and from which it is at times difficult to separate them. The hordes of barbarians of whom we have heard, who, issuing from their slums, will one day overwhelm modern civilization, do not exist. There are barbarians, but they are a handful, a small and decreasing percentage: a disgrace but not a danger.

This class is recruited with adult men from all the others. All such recruits have been in some way unfortunate, and most, if not all, have lost their characters. Women, too, drop down, sometimes with the men, more often from the streets. A considerable number of discharged soldiers are to be found in Classes A and B.

*Class B*—Casual earnings—very poor—add up almost exactly to 100,000, or  $11\frac{1}{4}$  per cent of the whole population. Widows or deserted women and their families bring a large contingent to this class, but its men are mostly to be found in Section 2 of "Labour." I have divided "Labour" into six sections, corresponding in effect to the first six classes—(1) occasional, (2) casual, (3) intermittent, (4) regular low pay, (5) regular standard pay, (6) highly paid. This classification cannot be made exact. These sections not only melt into each other by insensible degrees, but the only divisions which can be made are rather divisions of sentiment than of positive fact: the line between Nos. 1 and 2 (loafers and casual labourers) is of this character, difficult to test, and not otherwise to be established; and the boundaries of No. 2 are constantly fluctuating; for the casual labourer, besides being pressed on from below, when times are hard is also flooded from above; every class, even artisans and clerks, furnishing those who, failing to find a living in their own trade, compete at the dock gates for work. And on the other hand those of this class who have a preference, and come first in turn for the work of the casual sort that is to be had at the docks or elsewhere, practically step up into Section 4, or may do so if they choose, as obtaining regular work at low pay. Similarly, it is most difficult to divide correctly No. 3 from No. 5 (irregular from regular), or No. 5 from No. 4 (ordinary from low wages); in times of bad trade many who would otherwise be counted as regularly employed sink for a time into No. 3, and it is in some cases difficult to learn the actual wages, as well as to decide where to draw the line, between No. 5 and No. 4. Between No. 5 and No. 6 there is the same difficulty, especially where a higher rate of wages happens to be set off by greater irregularity of employment.

Section No. 2, coinciding, so far as it goes, with Class B, is intended to include none but true casual labourers, excluding the men already described under No. 1, who are not properly labourers at all; leaving for No. 3 those irregularly employed, who may be out of work or in work, but whose employment, though mostly paid by the hour, has



its tenure rather by the week, or the month, or the season; and for No. 4, those whose pay, however low, comes in with reasonable certainty and regularity from year's end to year's end. In East London the largest field for casual labour is at the Docks.

The labourers of Class B do not, on the average, get as much as three days' work a week, but it is doubtful if many of them could or would work full time for long together if they had the opportunity. From whatever section Class B is drawn, except the sections of poor women, there will be found many of them who from shiftlessness, helplessness, idleness, or drink, are inevitably poor. The ideal of such persons is to work when they like and play when they like; these it is who are rightly called the "leisure class" amongst the poor—leisure bounded very closely by the pressure of want, but habitual to the extent of second nature. They cannot stand the regularity and dullness of civilized existence, and find the excitement they need in the life of the streets, or at home as spectators of or participators in some highly coloured domestic scene. There is drunkenness amongst them, especially amongst the women; but drink is not their special luxury, as with the lowest class, nor is it their passion, as with a portion of those with higher wages and irregular but severe work. The earnings of the men vary with the state of trade, and drop to a few shillings a week or nothing at all in bad times; they are never high, nor does this class make the hauls which come at times in the more hazardous lives of the class below them; when, for instance, a sensational newspaper sells by thousands in the streets for 2d to 6d a copy. The wives in this class mostly do some work, and those who are sober, perhaps, work more steadily than the men; but their work is mostly of a rough kind, or is done for others almost as poor as themselves. It is in all cases wretchedly paid, so that if they earn the rent they do very well.

Both boys and girls get employment without much difficulty—the girls earn enough to pay their mothers 4s or 5s a week if they stay at home; and if the boys do not bring in enough, they are likely to be turned adrift, being in that case apt to sink into Class A; on the other hand, the more industrious or capable boys no doubt rise into Classes C, D, or E.

Class B, and especially the "labour" part of it, is not one in which men are born and live and die, so much as a deposit of those who from mental, moral, and physical reasons are incapable of better work.

*Class C*—Intermittent earnings—numbering nearly 75,000, or about 8 per cent of the population, are more than any others the victims of competition, and on them falls with particular severity the weight of recurrent depressions of trade. In this class are counted most of the labourers in Section 3, together with a large contingent from the poorer artisans, street sellers, and the smaller shops. Here may perhaps be found the most proper field for systematic charitable assistance; provided always some evidence of thrift is made the pre-condition or consequence of assistance.

Section 3 of Labour, which contributes so largely to Class C, consists of men who usually work by the job, or who are in or out of work according to the season or the nature of their employment. This irregularity of employment may show itself in the week or in the year: stevedores and waterside porters may secure only one or two days' work in a week, whereas labourers in the building trades may get only eight or nine months in the year. They are, all round, men who, if in regular work, would be counted in Section 5, and it is therefore satisfactory to note that the proportion in irregular work is small. The great body of the labouring class (as distinguished from the skilled workmen) have a regular steady income, such as it is.

Some of the irregularly employed men earn very high wages, fully as high as those of the artisan class. These are men of great physical strength, working on coal or grain, or combining aptitude and practice with strength as in handling timber. It is amongst such men, especially those carrying grain and coal, that the passion for drink is most developed. A man will very quickly earn 15s or 20s, but at the cost of great exhaustion, and many of them eat largely and drink freely till the money is gone, taking very little of it home. Others of this class earn wages approaching to artisan rates when, as in the case of stevedores, their work requires special skill, and is protected by trade organization. If these men are to be counted in Section No. 3, as unfortunately many of them must be at present, it is because their numbers are too great. While trade is dull the absorption of surplus labour by other employment is extremely slow. There are also in this section a large number of wharf and warehouse hands, who depend on the handling of certain crops for the London market. They have full work and good work when the wool or tea sales are on, and at other times may be very slack.

They take things as they come; work when they can get work in their own line, and otherwise go without, or, if actually hard up, try, almost hopelessly, for casual work. The more enterprising ones who fill up their time in some way which ekes out their bare earnings are the exceptions, and such men would probably pass into Section 5 as having regular standard earnings. On the other hand, many fall out of Section 5 into Section 3 through illness, and it is largely in such cases that extreme poverty is felt. The pressure is also very severe where there are many young children; a man and his wife by themselves can get along, improvident or not, doing on very little when work fails; the children who have left school, if they live at home, readily keep themselves, and sometimes do even more. It is in the years when the elder children have not yet left school, while the younger ones are still a care to the mother at home, that the pressure of family life is most felt.

The men of Section 3 have a very bad character for improvidence, and I fear that the bulk of those whose earnings are irregular are wanting in ordinary prudence. Provident thrift, which lays by for to-morrow, is not a very hardy plant in England, and needs the regular payment of weekly wages to take root freely.

There will be many of the irregularly employed who could not keep a permanent job if they had it, and who must break out from time to time; but the worst of these drop into Section 2, and for the most part I take Section 3 to consist of hard-working struggling people, not worse morally than any other class, though shiftless and improvident, but out of whom the most capable are either selected for permanent work, or equally lifted out of the section by obtaining preferential employment in irregular work. They are thus a somewhat helpless class, not belonging usually to any trade society, and for the most part without natural leaders or organization; the stevedores are the only exception I know of, and so far as they are here counted in No. 3, are so under peculiarly adverse circumstances; No. 5 is their proper section.

Labour of No. 3 character is very common in London. There may be more of it proportionately in other districts than in the East End. In this class the women usually work or seek for work when the men have none; they do charing, or washing, or needlework, for very little money; they bring no particular skill or persistent effort to what they



do, and the work done is of slight value. Those who work the most regularly and are the best paid are the widows.

*Class D, small regular earnings*, poor, are about 129,000, or nearly  $14\frac{1}{2}$  per cent of the population. It must not be understood that the whole of these have quite regular work; but only that the earnings are constant enough to be treated as a regular income, which is not the case with the earnings of Class C. Of D and C together we have 203,000, and if this number is equally divided to represent those whose earnings are regular and irregular, which would be to place the standard of regularity a little higher than has been done in this inquiry, the result would be equal numbers of each grade of poverty—100,000 of B or casual, 100,000 of C or intermittent, and 100,000 of D or regular earnings, out of a total population of 900,000, or one-ninth of each grade.

The class coincides to a very great extent with Section 4 of Labour (or those with regular work at minimum wage), in which section have been included those whose labour may be paid daily and at the casual rates, but whose position is pretty secure, and whose earnings, though varying a little from week to week, or from season to season, are in effect constant.

The men of Section 4 are the better end of the casual dock and water-side labour, those having directly or indirectly a preference for employment. It includes also a number of labourers in the gas works whose employment falls short in summer but never entirely ceases. The rest of this section are the men who are in regular work all the year round at a wage not exceeding 21s a week. These are drawn from various sources, including in their numbers factory, dock, and warehouse labourers, carmen, messengers, porters, &c.; a few of each class. Some of these are recently married men, who will, after a longer period of service, rise into the next class; some are old and superannuated, semi-pensioners; but others are heads of families, and instances are to be met with (particularly among carmen) in which men have remained fifteen or twenty years at a stationary wage of 21s or even less, being in a comparatively comfortable position at the start, but getting poorer and poorer as their family increased, and improving again as their children became able to add their quota to the family income. In such cases the loss of elder children by marriage is sometimes looked upon with jealous disfavour.



Of the whole section none can be said to rise above poverty, unless by the earnings of the children, nor are many to be classed as very poor. What they have comes in regularly, and except in times of sickness in the family, actual want rarely presses, unless the wife drinks. As a general rule these men have a hard struggle to make ends meet, but they are, as a body, decent steady men, paying their way and bringing up their children respectably. The work they do demands little skill or intelligence.

In the whole class with which this section is identified the women work a good deal to eke out the men's earnings, and the children begin to make more than they cost when free from school: the sons go as van boys, errand boys, &c., and the daughters into daily service, or into factories, or help the mother with whatever she has in hand.

The comfort of their homes depends, even more than in other classes, on a good wife. Thrift of the "make-the-most-of-everything" kind is what is needed, and in very many cases must be present, or it would be impossible to keep up so respectable an appearance as is done on so small an income.

*Class E. Regular standard earnings.* These are the bulk of Section 5, together with a large proportion of the artisans and most other regular wage earners. I also include here, as having equal means, the best class of street sellers and general dealers, a large proportion of the small shopkeepers, the best off amongst the home manufacturers, and some of the small employers. This is by far the largest class of the population under review, adding up to 377,000, or over 42 per cent. Section No. 5 contains all, not artisans or otherwise scheduled, who earn from 22s to 30s per week for regular work. There are some of them who, when wages are near the lower figure, or the families are large, are not lifted above the line of poverty; but few of them are very poor, and the bulk of this large section can, and do, lead independent lives, and possess fairly comfortable homes.

As a rule the wives do not work, but the children all do: the boys commonly following the father (as is everywhere the case above the lowest classes), the girls taking to local trades, or going out to service. The men in this section are connected with almost every form of industry, and include in particular carmen, porters and messengers, warehousemen, permanent dock labourers, stevedores, and many others. Of these some, such as the market porters and stevedores,

do not earn regular wages, but both classes usually make a fair average result for the week's work, and only in exceptional cases have been placed in Section 3.

It may be noted that Classes D and E together form the actual middle class in this district, the numbers above and below them being very fairly balanced. The wage earners of Class E take readily any gratuities which fall in their way, and all those who constitute it will mutually give or receive friendly help without sense of patronage or degradation; but against anything which could be called charity their pride rises stiffly. This class is the recognized field of all forms of co-operation and combination, and I believe, and am glad to believe, that it holds its future in its own hands. No body of men deserves more consideration; it does not constitute a majority of the population in the East of London, nor, probably, in the whole of London, but it perhaps may do so taking England as a whole. It should be said that only in a very general way of speaking do these people form one class, and beneath this generality lie wide divergences of character, interests, and ways of life. This class owns a good deal of property in the aggregate.

*Class F* consists of higher class labour (Section 6), and the best paid of the artisans, together with others of equal means and position from other sections, and amounts to 121,000, or about  $13\frac{1}{2}$  per cent of the population. The line between Sections 5 and 6 of labour has not been pressed closely, and it is probable that many whose earnings one way or another exceed 30s per week have been allowed to remain in No. 5; those in Section No. 6 earn certainly more than 30s, and up to 45s or 50s. Besides foremen are included City warehousemen of the better class, and first hand lightermen; they are usually paid for responsibility, and are men of very good character and much intelligence.

This (No. 6) is not a large section of the people, but it is a distinct and very honourable one. These men are the non-commissioned officers of the industrial army. No doubt there are others as good in the ranks, and vacant places are readily filled with men no less honest and trustworthy; all the men so employed have been selected out of many. The part they play in industry is peculiar. They have nothing to do with the planning or direction (properly so called) of business operations; their work is confined to superintendence. They

supply no initiative, and having no responsibility of this kind they do not share in profits; but their services are very valuable, and their pay enables them to live reasonably comfortable lives, and provide adequately for old age. No large business could be conducted without such men as its pillars of support, and their loyalty and devotion to those whom they serve is very noteworthy. Most employers would admit this as to their own foremen, but the relation is so peculiar and personal in its character that most employers also believe no other foremen to be equal to their own.

Their sons take places as clerks, and their daughters get employment in first-class shops or places of business; if the wives work at all, they either keep a shop, or employ girls at laundry work or at dressmaking.

There is a great difference between these men and the artisans who are counted with them as part of Class F: the foreman of ordinary labour generally sees things from the employer's point of view, while the skilled artisan sees them from the point of view of the employed. Connected with this fact it is to be observed that the foremen are a more contented set of men than the most prosperous artisans.

*Class G. Lower middle class.* Shopkeepers and small employers, clerks, &c., and subordinate professional men. A hard-working, sober, energetic class, which I will not more fully describe here, as they no doubt will be comparatively more numerous in other districts of London. Here they number 34,000, or nearly 4 per cent. It is to be noted that Class G, which in the whole district compares with the class above it as 34 to 45, for East London proper compares as 32 to 12. The exaggeration of Class H, as compared to Class G, is entirely due to Hackney.

*Class H. Upper middle class.* All above G are here lumped together, and may be shortly defined as the servant-keeping class. They count up to about 45,000, or 5 per cent of the population. Of these more than two-thirds are to be found in Hackney, where one-fifth of the population live in houses which, owing to their high rental, are not scheduled by the School Board visitors. In the other districts scattered houses are to be found above the value at which the School Board usually draws the line; but the visitors generally know something of the inmates. In Hackney, however, there are many streets as to which the visitors have not even the names in their books. The

estimated number of residents in these unscheduled houses I have placed in Class H, to which they undoubtedly belong, excepting that the servants (also an estimated number) appear under Class E, from which they are mostly drawn.

It is to be remembered that the dividing lines between all these classes are indistinct; each has, so to speak, a fringe of those who might be placed with the next division above or below; nor are the classes, as given, homogeneous by any means. Room may be found in each for many grades of social rank.

Two things are here very noticeable—the one that fully half the women who have to support themselves seek a livelihood in semi-domestic employments, such as washing and charring; and the other, that it is amongst such occupations and not amongst the trades, that the greatest apparent poverty exists.

Grouping the classes together, A, B, C, and D are the classes in poverty, or even in want, and add up to 314,000, or 35 per cent of the population; while E, F, G, and H are the classes in comfort, or even in affluence, and add up to 577,000, or 65 per cent of the population.<sup>1</sup>

### *The Causes of Poverty*

Questions of employment—Lack of work<sup>2</sup> or low pay—Questions of habit, idleness, drunkenness, or thriftlessness—Questions of circumstance, sickness, or large families. Under these heads fall all the causes of poverty. To throw some light on the proportion which these troubles bear to each other, and so on to the ultimate question of what cure can be found, I have attempted to analyze four thousand cases of the poor and very poor known to selected School Board visitors in each district, and give the full results in a table which follows. It would not be safe to generalize very confidently from an analysis of this sort unless it can be supported by other evidence. The figures have, however, statistically one great element of value. They are representative of all the poor in the districts from which they are drawn, and not only of those who apply for relief.

<sup>1</sup> Booth next describes the separate districts and their institutions in chapters which have been omitted from these *Readings*. Working Men's Clubs, Friendly Societies, Co-operative Stores, Public-houses, Amusements, Settlements, Missions, Hospitals, and Charities are briefly treated.—ED.

<sup>2</sup> This cause includes incapacity.



## ANALYSIS OF CAUSES OF "GREAT POVERTY" (CLASSES A AND B)

		PER CENT		PER CENT
1. Loafers . . . . .			60	4
2. Casual work . . . . .	697	43	878	55 { Questions of employment
3. Irregular work, low pay . . . . .	141	9		
4. Small profits . . . . .	40	3		
5. Drink (husband, or both husband and wife) . . . . .	152	9	231	14 { Questions of habit
6. Drunken or thriftless wife . . . . .	79	5		
7. Illness or infirmity. . . . .	170	10	441	27 { Questions of circumstance
8. Large family . . . . .	124	8		
9. Illness or large family, combined with irregular work. . . . .	147	9		
			1,610	100

## ANALYSIS OF CAUSES OF "POVERTY" (CLASSES C AND D)

		PER CENT		PER CENT
1. Loafers				
2. Low pay (regular earnings) . . . . .	503	20	1,668	68 { Questions of employment
3. Irregular earnings . . . . .	1,052	43		
4. Small profits . . . . .	113	5		
5. Drink (husband, or both husband and wife) . . . . .	167	7	322	13 { Questions of habit
6. Drunken or thriftless wife . . . . .	155	6		
7. Illness or infirmity. . . . .	123	5	476	19 { Questions of circumstance
8. Large family . . . . .	223	9		
9. Illness or large family, combined with irregular work. . . . .	130	5		
			2,466	100

Of the 4000 cases, 1600 heads of families belonged to Classes A and B (the "very poor"), and of them 60 are admitted loafers—those who will not work. After these come 878 whose poverty is due to the casual or irregular character of their employment, combined more or less with low pay; then 231 whose poverty is the result of drink or obvious want of thrift, and finally 441 more, who have been

impoverished by illness, or the large number of those who have to be supported out of the earnings.

Of the remaining 2400 cases from Classes C and D, there are 1600 who are poor because of irregular earnings or low pay, 300 whose poverty can be directly traced to drink or thriftless habits, and 500 with whom the number of their children or the badness of their health is the cause. No loafers are counted here. The amount of loafing that brings a man's family down part way to destitution is not very noticeable, or may perhaps pass as irregular employment. Such men live on their wives.

It may be observed that the proportion of Classes C and D who owe their poverty to questions of employment is greater, while that of those owing it to questions of circumstance is less, than with the very poor, while drink accounts for about the same proportion in both tables. In the case of very poor, low pay and casual or irregular work are combined, and account for 55 per cent. With the "poor" these causes can be separated, and we have 43 per cent whose poverty is traced to the irregularity of their work, and 25 per cent whose poverty is traced to their low pay.

Drink figures as the cause of poverty to a much greater extent everywhere else than in Whitechapel, where it only accounts for 4 per cent of the very poor, and 1 per cent of the poor. This is no doubt to be explained by the Jewish population, who, whatever their faults may be, are very sober. To those who look upon drink as the source of all evil, the position it here holds as accounting for only 14 per cent of the poverty in the East End may seem altogether insufficient; but I may remind them that it is only as principal cause that it is here considered; as contributory cause it would no doubt be connected with a much larger proportion.

### *The Unemployed*

It will be seen that this analysis takes no account of incapacity for work except so far as consequent on illness. But incapacity of two kinds is no doubt common: that which leads especially to low pay and that which leads especially to irregularity of employment. There are those who never learn to do anything well on the one hand, and those who cannot get up in the morning on the other; those who are slow,

taking two or three hours to do what another man will do in one; and those who are too restless to keep any employment long; those who are adapted only for some employment for which there is a fitful demand, or no demand at all; those who, without being counted as ill, or infirm, or disabled, are yet incapacitated for profitable work by bad sight, or failing nerves, or deficient strength; and lastly there is every degree of weakness of intellect.

I wish it were possible for me to break up the mass of those who owe their poverty to questions of employment, and to show what is their economic value compared to that of the better paid and regularly employed working people of Class E, for it is essential to have such evidence before any hopeful attempt to deal with the question of the unemployed can be made; not that I desire to make too much of such inferiority of skill or character as may sometimes have cost them their place or lost them a chance, when places and chances are not plentiful. I do not doubt that many good enough men are now walking about idle; but it must be said that those of their number who drop low enough to ask charitable aid rarely stand the test of work. Such usually cannot keep work when they get it; lack of work is not really the disease with them, and the mere provision of it is therefore useless as a cure. The unemployed are, as a class, a selection of the unfit, and, on the whole, those most in want are the most unfit. This is the crux of the position. As to their numbers, it must be remembered that it is the men who figure in my tables as irregularly employed, who also may be, and are, counted as the "unemployed." This it is which makes these numbers so elastic. In this sense the whole of Sections 2 and 3 of labour, as well as Section 1, might be counted, besides all the artisans to be found in Classes B and C. Here are the plentiful materials from which a Sunday mass meeting of the unemployed may be drawn.

As to the 4400 adult men of Section 1 (being the adult males out of 9050 estimated population) or whatever their numbers in the district may be, it is not only quite certain that they do not really want work, but also that there is very little useful work for which they are fitted. Whatever the duty of society may be towards these men, the offer of work has been shown over and over again not to fulfil it; the work is either refused or soon dropped, and the men return to more congenial pursuits. Work may be of use as a test, but

that is all; and the problem of the "unemployed" only touches those of them who, by standing the test, prove themselves to belong to Section 2.

As to Section 2, with its 13,000 adults, there are weeks when most of them are or might be at work, and other weeks when but few of them do a stroke; such is their life. Their position can only be altered for the better by a greater regularity of work, or by a higher scale of pay; they are not unemployed, they are badly employed.

It is much the same with most of Section 3; a man who gets good work through the summer, and is somewhat short of work in winter, is not even to be called badly employed, unless he does so badly in summer as not to be able to face the winter slackness. It would be pedantic to stretch this argument very far; the insufficiently employed, those who might very well accomplish in the due seasons of their employment more work than is offered them, are truly unemployed to that extent.

Connected with this—with the ebb of this or that industry, or all the industries together for a time—is the saddest form of poverty, the gradual impoverishment of respectability, silently sinking into want. The very large proportion of both poor and very poor who are continually short of work suggests various considerations. When they do not work, what do they do? What use do they make of their unoccupied time? Organization of work needs to be supplemented by organization of leisure. In this direction the interests of employers are not opposed to those of labour; but the movement must come from the men themselves, and here we meet the usual difficulty. The present system suits the character of the men. They suit it and it suits them, and it is impossible to say where this vicious circle begins. It has been suggested that adult educational classes might be used in this direction—used, that is, in connection with some systematic treatment of want of work. As it now is, the men claim that their time is occupied, or at least made otherwise useless, by the search after work; that they need to be always on hand or they may miss some chance. This state of things is evidently fraught with evil, and seems a needless aggravation of competition. The trades unions, clubs, or co-operative societies might, one should think, provide a system which would make good use of days that would otherwise be wasted. It is sad if no useful results for themselves or for each other



can be obtained from the combined efforts of the partially employed in their leisure hours.

The modern system of industry will not work without some unemployed margin—some reserve of labour—but the margin in London to-day seems to be exaggerated in every department, and enormously so in the lowest class of labour. Some employers seem to think that this state of things is in their interest—the argument has been used by dock officials—but this view appears shortsighted, for labour deteriorates under casual employment more than its price falls. I believe it to be to the interest of every employer to have as many regularly employed servants as possible, but it is still more to the interest of the community, and most of all to that of the employed. To divide a little work amongst a number of men—giving all a share—may seem kind and even just, and I have known such a course to be taken with this idea. It is only justifiable as a temporary expedient, serving otherwise but to prolong a bad state of things.

If leisure were organized, we should at least know the extent of the want of employment, and we might also learn something definite about the effect of seasons of work: learn to what extent the dovetailing of employments is practicable or is at present effected, or to what extent work for the slack season may be arranged in the trade itself, and now is arranged, by those employers who think it well to keep their workpeople together.

Further, there is, with regard to female industries, the question of work which never pretends to be other than the employment of leisure time. If the higher organization of industry brought it about that a value not to be found in desultory work were found in the entire service and undivided energies of the worker, a division would follow, as to women's work, between those who earn their living and those who only help to do so, or work for pocket-money. Such special value ought to exist. In connection with great skill, I believe it does exist to a very marked extent. The same rule applies more or less to all industry. Some suppose that the introduction of machinery tends to make all men equal before the machine, but this is a mistake. Machinery may tend to accentuate the difference between skilled and unskilled labour, but the machine hand is always a skilled worker, not lightly to be discharged, and the regularity of his employment carries with it that of the unskilled hands. The value of the machine itself

tends in the same direction. It is where machinery is most used that employment is most constant, and where it is least used that it is most precarious. The higher organization of industry tends against every cause of irregularity of employment.

However it is to be explained, the fact remains that neither Class B nor Class C work much more than half their time, and that there is no month in the year, taking the people together, when this is not so. It is also a fact that most of the work done by Class B is inefficiently done, both badly and slowly. It may not be too much to say that if the whole of Class B were swept out of existence, all the work they do could be done, together with their own work, by the men, women, and children of Classes C and D: that all they earn and all they spend might be earned, and could very easily be spent, by the classes above them; that these classes, and especially Class C, would be immensely better off, while no class, nor any industry, would suffer in the least. This view of the subject serves to show who it is that really bear the burden. To the rich the very poor are a sentimental interest: to the poor they are a crushing load. The poverty of the poor is mainly the result of the competition of the very poor. The entire removal of this very poor class out of the daily struggle for existence I believe to be the only solution of the problem. Is this solution beyond our reach?

If it is true, as we are taught and as I believe, that the standard of life is rising, and that the proportion of the population in very poor circumstances never has been less, and is steadily decreasing, it follows, as I think, that some day the individualist community, on which we build our faith, will find itself obliged for its own sake to take charge of the lives of those who, from whatever cause, are incapable of independent existence up to the required standard, and will be fully able to do so. Has this time come yet? In spite of the poor way in which all, and the miserable way in which many, of these people live, they do not keep themselves; and in spite of the little pay they get I believe no work is so dear as that which they do. Indeed it must be so, or else they would have more work given them. Those who obtain better wages and more regular employment receive only in proportion to what they give, and are more profitable servants.

Beyond the malefic influence which the imperative needs and ill-regulated lives of the class we are considering exercise over the fortunes of those who might otherwise do well enough, and beyond the

fact that they do not support themselves, but absorb the charities of both rich and poor, they are also a constant burthen to the State. What they contribute, whether in taxes or rates, is little compared to the expense they cause. Their presence in our cities creates a costly and often unavailing struggle to raise the standard of life and health.

The question of those who actually suffer from poverty should be considered separately from that of the true working classes, whose desire for a larger share of wealth is of a different character. It is the plan of agitators and the way of sensational writers to confound the two in one, to talk of "starving millions," and to tack on the thousands of the working classes to the tens or hundreds of distress. Against this method I protest. To confound these essentially distinct problems is to make the solution of both impossible; it is not by welding distress and aspirations that any good can be done.

### POVERTY AND CROWDING<sup>1</sup>

In Volume II of the Poverty Series the whole population (overestimated at the time at 4,309,000) is divided and described as follows:

		PER CENT	PER CENT
Classes A and B (the very poor) . . . .	354,444	8.4	} (In poverty)
Classes C and D (the poor) . . . .	938,293	22.3	
Classes E and F (comfortable working class, including all servants) . . . .	2,166,503	51.5	} (In comfort)
Classes G and H ("lower middle," "middle," and "upper" classes) . . . .	749,930	17.8	
	4,209,170		
Inmates of Institutions . . . .	99,830		
(Estimated population, 1889) . . . .	4,309,000		

And with this a fairly close comparison may now be made:

		PER CENT	PER CENT
Poor	{ (1 and 2) <sup>2</sup> 3 or more persons		} (Crowded)
	per room . . . .	492,370	
	{ (3) 2 and under 3 persons per		
	room . . . .	781,615	
	Common lodging houses, etc.	20,087	0.5
		19.0	19.5
			31.5

<sup>1</sup>From *Life and Labour of the People in London*, by Charles Booth. Final Volume: Notes on Social Influences and Conclusion, pp. 9-10. Macmillan & Co., Limited, London, 1903.

<sup>2</sup>The numbers refer to explanatory tables on page 8 of Final Volume.—ED.

			PER CENT	PER CENT
Central	(4) 1 and under 2 persons per room . . . . .	962,780	23.4	56.4
	(5) Less than 1 person per room . . . . .	153,471	3.7	
	(6) Occupying more than 4 rooms . . . . .	981,553	23.9	
	Servants . . . . .	205,858	5.0	
	Persons living in large shops, etc. . . . .	15,321	0.4	
Upper	(a) 4 or more persons to 1 servant . . . . .	227,832	5.5	12.1
	(b) to (h) 3 or less persons to 1 servant . . . . .	248,493	6.0	
	Inmates of hotels and boarding houses where servants are kept . . . . .	25,726	0.6	
		4,115,106		
		96,637	100.	
		4,211,743		

(Not crowded)  
68.5

The percentages for "crowded" and "not crowded" agree very nearly with those for "in poverty" and "in comfort," but no such absolute comparison can be made as the figures might suggest. Living in close quarters is no certain test of poverty, and accordingly while some districts are more crowded than they are poor, others are plainly more poor than they are crowded. It is only when we take the large average provided by the whole area of London, or by districts which represent this average, that we obtain such an agreement as is shown above.

## 71. POVERTY—A STUDY OF TOWN LIFE—IN YORK, ENGLAND<sup>1</sup>

### *The Poverty Line*

The families living in poverty may be divided into two sections:

1. Families whose total earnings<sup>2</sup> are insufficient to obtain the

<sup>1</sup>By B. Seebohm Rowntree. Adapted from *Poverty: A Study of Town Life*, pp. 87-305. Macmillan & Co., Limited, London, 1902.

<sup>2</sup>The writer has assumed that the entire earnings of the family, including those of the grown-up children living at home, are available as family income. As a matter of fact, only a part of the earnings of the older children (i.e. a sum for board and lodging equivalent to that paid by ordinary lodgers) is contributed to the family purse. In the estimates of earnings a careful attempt has been made to allow both for broken time and for overtime.



minimum necessities for the maintenance of merely physical efficiency. Poverty falling under this head may be described as "primary" poverty.

2. Families whose total earnings would be sufficient for the maintenance of merely physical efficiency were it not that some portion of it is absorbed by other expenditure, either useful<sup>1</sup> or wasteful. Poverty falling under this head may be described as "secondary" poverty.

An estimate was made of the earnings of every working-class family in York. In order to ascertain how many of these families were living in a state of "primary" poverty, the income of each was compared with the standard,<sup>2</sup> due allowance being made in every case for size of family and rent paid.

Let us now see what was the result of this examination. No less than 1465 families, comprising 7230 persons, were living in "primary" poverty. This is equal to 15.46 per cent of the wage-earning class in York, and to 9.91 per cent of the whole population of the city. The above estimate, it should be particularly noted, is based upon the assumption that every penny earned by every member of the family went into the family purse, and was judiciously expended upon necessities.

With a view of showing the number of persons but slightly above the "primary" poverty line, I have ascertained what would have been the total number below this line had the standard of necessary weekly family expenditure been increased (1) by 2s. and (2) by 6s. The results are shown in the following table:

	NUMBER OF PER- SONS	PERCENTAGE OF WAGE- EARNING CLASSES	PERCENTAGE OF TOTAL POPULATION OF CITY
Persons below the "primary" poverty line . . .	7,230	15.46	9.91
Persons belonging to families whose total weekly earnings are either below or not more than 2s. above the "primary" poverty line . . .	9,542	20.40	13.09
Persons belonging to families whose total weekly earnings are either below or not more than 6s. above the "primary" poverty line . . .	15,727	33.63	21.5

<sup>1</sup>It need hardly be said that an expenditure may be in the truest sense "useful" which is not necessary for the maintenance of merely physical efficiency.

<sup>2</sup>Careful analysis made in Chapter IV (Rowntree, *Poverty*) places the standard of minimum necessary expenditure per week at 7s. per one man or one woman and at 21s. 8d. for husband, wife, and three children. See also *infra*, p. 545.

The question may arise: Do the family earnings comprise the whole of the family income? Are there not other sources of income which have not been taken into account? In the country, for instance, the money wage of the agricultural labourer by no means always represents his total income; he is often able to augment this considerably by means of the produce from his allotment, or by keeping hens, pigs, etc. Does the town dweller augment his income in some corresponding way? Inquiry has been made into this question in York, and I have come to the conclusion that the extent to which incomes are augmented by such irregular means is very small, and would not materially affect the figures we have been considering.

The chief possible sources of such additional income would seem to be:

1. Money sent home by children who are working and who are not living at home, e.g. domestic servants, etc. It is well known that amongst the Irish and Welsh people, children who are living away from home frequently send considerable sums to their parents, but careful inquiry at registry offices and elsewhere has elicited the information that any such additions to the incomes of working-class families in York are probably very small, being as a rule confined to gifts at Christmas or on birthdays, and even these additions are to a certain extent neutralised by gifts of clothing, etc., sent to their children by parents.

2. Allotment gardens, keeping hens and pigs, etc. There are not more than about 120 allotments in York, and these are for the most part rented by well-to-do working men, whose money earnings alone are sufficient to place them above the "primary" poverty line. The number of hens and pigs kept by working men in York is insignificant.

3. "Stray" money. There are four "strays" in York. These are common lands held by the freemen of York, many of whom are wage-earning men. The profits accruing from the strays (i.e. sums received for pasturage) are distributed yearly amongst the freemen. But the sums thus distributed are small. During the last three years (1897-99) the average annual sum received by each freeman was under 12s. per annum.

4. Payments for occasional service and "odd jobs," such for instance as payments made to women for an occasional day's washing, or for sitting up at night with a sick person, etc., or payments to children for going errands, etc. In all cases in which these con-

stituted a considerable portion of the income, the investigators made a note of the fact, and included such earnings in the family total. There will, of course, be occasional earnings under this head which have not been noted, but their extent would not be so large as materially to affect the figures given. In the case of such occupations as railway porters, cabmen, etc., an average allowance for "tips" was always made.

5. Charitable gifts. There is no doubt that the amount of money, food, etc., given in the form of charity is considerable, but it is not possible to ascertain the extent of such gifts. And for the purposes of this chapter the information is not needed. For, broadly speaking, the recipients of charity are the poor, i.e. those who from causes "primary" or "secondary" are below the poverty line; and the number of the poor who are lifted above it by charity must be small. An analysis of the persons in the city who are below the "primary" poverty line shows that more than one half of these are members of families whose wage-earner is in work but in receipt of insufficient wages. It is probable that the great bulk of the charity that is given goes to those who are ill or out of work, and to widows. The serious import of the figures given in this chapter would, however, have been but little lessened had there been reason to believe that a considerable number of those below the "primary" poverty line had been lifted above it through private charity. Any gain in material comfort would have been dearly purchased at the cost of independence of character, and the consequences of such artificial support would be grave, economically as well as morally.

### *What is the Extent of "Secondary" Poverty in York?*

At the beginning of this chapter, those families living in a state of "secondary" poverty were defined as families whose total earnings would be sufficient for the maintenance of merely physical efficiency were it not that some portion of it is absorbed by other expenditure, either useful or wasteful. To ascertain this by direct inquiry it would have been necessary to know, in every case, the average sum spent weekly on drink, gambling, and other wasteful expenditure, and to ascertain also whether the wife was a thrifty housekeeper or the reverse.

The number of persons living in "secondary" poverty was ascertained in the following way. The investigator, in the course of his

house-to-house visitation, noted down the households where there were evidences of poverty, i.e. obvious want and squalor. Direct information was often obtained from neighbours, or from a member of the household concerned, to the effect that the father or mother was a heavy drinker; in other cases the pinched faces of the ragged children told their own tale of poverty and privation.

Judging in this way, partly by appearance, and partly from information given, I have been able to arrive at a fair estimate of the total number of persons living in poverty in York. From this total number I subtracted the number of those ascertained to be living in "primary" poverty; the difference represents those living in "secondary" poverty.<sup>1</sup> It must be remembered that some families are living in apparent poverty in the slums, not because of inadequate income, but because of their attachment to the neighbourhood and their distaste for the effort required by a life among better surroundings. On the other hand, there may be some families living in clean and tidy houses who are from one cause or another without the necessities for physical efficiency, although their incomes are not so low as to place them below the "primary" poverty line. For instance, they may be paying off some debt contracted at a time when the wage-earner was out of work.

The investigator, judging by appearances, would place such families above the poverty line, whilst he would no doubt place below it some families living in the slums who should not have been so counted. Probably, however, these sources of error to a large degree cancel each other.

By the method described above, it was found that families comprising 20,302 persons, equal to 43.4 per cent of the wage-earning class, and to 27.84 per cent of the total population of the city, were living in poverty. If the 7230 persons found to be living in "primary" poverty are deducted, it is found that 13,072 persons, or 17.93 per cent of the population, were living in "secondary" poverty.<sup>2</sup>

That nearly 30 per cent of the population are found to be living in poverty is a fact of the gravest significance.

<sup>1</sup> The total earnings of every working-class family in York were ascertained, the numbers living in "primary" poverty being determined by a comparison between total family earnings and necessary family expenditure.

<sup>2</sup> The total population of 75,812 is sub-classified as follows: servant keeping class 21,830, servants 4296, persons in public institutions 2932, working classes above poverty line 26,452, persons in poverty 20,302.—ED.



*The Immediate Causes of Primary Poverty in York*

It is no part of the object of this chapter to discuss the ultimate causes of poverty. To attempt this would be to raise the whole social question. The object is rather to indicate the immediate causes of (1) "primary" poverty, and (2) "secondary" poverty in York.

These appear to fall under the following headings:

1. Death of chief wage-earner.
2. Incapacity of chief wage-earner through accident, illness, or old age.
3. Chief wage-earner out of work.
4. Chronic irregularity of work (sometimes due to incapacity or unwillingness of worker to undertake regular employment).
5. Largeness of family, i.e. cases in which the family is in poverty because there are more than four children, though it would not have been in poverty had the number of children not exceeded four.
6. Lowness of wage, i.e. where the chief wage-earner is in regular work, but at wages which are insufficient to maintain a moderate family (i.e. not more than four children) in a state of physical efficiency.

On analysing the cases of "primary" poverty in York, we find that they are immediately due to one or other of the above causes in the following proportions:

IMMEDIATE CAUSE OF "PRIMARY" POVERTY	NUMBER OF CHILDREN AFFECTED	NUMBER OF ADULTS AFFECTED	TOTAL NUMBER AFFECTED	PERCENTAGE OF TOTAL POPULATION LIVING UNDER "PRIMARY" POVERTY LINE
Death of chief wage-earner . . .	460	670	1130	15.63
Illness or old age of chief wage-earner . . . . .	81	289	370	5.11
Chief wage-earner out of work . . . . .	78	89	167	2.31
Irregularity of work . . . . .	94	111	205	2.83
Largeness of family, i.e. more than four children . . . . .	1122	480	1602	22.16
In regular work, but at low wages	2380	1376	3756	51.96
	4215	3015	7230	100.00

It is seen that the wages paid for unskilled labour in York are insufficient to provide food, shelter, and clothing adequate to main-

tain a family of moderate size in a state of bare physical efficiency. It will be remembered that the above estimates of necessary minimum expenditure are based upon the assumption that the diet is even less generous than that allowed to able-bodied paupers in the York Workhouse, and that no allowance is made for any expenditure other than that absolutely required for the maintenance of merely physical efficiency.

And let us clearly understand what "merely physical efficiency" means. A family living upon the scale allowed for in this estimate must never spend a penny on railway fare or omnibus. They must never go into the country unless they walk. They must never purchase a halfpenny newspaper or spend a penny to buy a ticket for a popular concert. They must write no letters to absent children, for they cannot afford to pay the postage. They must never contribute anything to their church or chapel, or give any help to a neighbour which costs them money. They cannot save, nor can they join sick club or Trade Union, because they cannot pay the necessary subscriptions. The children must have no pocket money for dolls, marbles, or sweets. The father must smoke no tobacco, and must drink no beer. The mother must never buy any pretty clothes for herself or for her children, the character of the family wardrobe as for the family diet being governed by the regulation, "Nothing must be bought but that which is absolutely necessary for the maintenance of physical health, and what is bought must be of the plainest and most economical description." Should a child fall ill, it must be attended by the parish doctor; should it die, it must be buried by the parish. Finally, the wage-earner must never be absent from his work for a single day.

If any of these conditions are broken, the extra expenditure involved is met, and can only be met, by limiting the diet; or, in other words, by sacrificing physical efficiency.

That few York labourers receiving 20s. or 21s. per week submit to these iron conditions in order to maintain physical efficiency is obvious. And even were they to submit, physical efficiency would be unattainable for those who had three or more children dependent upon them. It cannot therefore be too clearly understood, nor too emphatically repeated, that whenever a worker having three children dependent on him, and receiving not more than 21s. 8d. per week,

indulges in any expenditure beyond that required for the barest physical needs, he can do so only at the cost of his own physical efficiency, or of that of some members of his family.

If a labourer has but two children, these conditions will be better to the extent of 2s. 10d.; and if he has but one, they will be better to the extent of 5s. 8d. And, again, as soon as his children begin to work, their earnings will raise the family above the poverty line. But the fact remains that every labourer who has as many as three children must pass through a time, probably lasting for about ten years, when he will be in a state of "primary" poverty; in other words, when he and his family will be underfed.<sup>1</sup>

The life of a labourer is marked by five alternating periods of want and comparative plenty. During early childhood, unless his father is a skilled worker, he probably will be in poverty; this will last until he, or some of his brothers or sisters, begin to earn money and thus augment their father's wage sufficiently to raise the family above the poverty line. Then follows the period during which he is earning money and living under his parents' roof; for some portion of this

<sup>1</sup>Some readers may be inclined to say, upon reading the above, "This surely is an over-statement. Look at the thousands of families with incomes of 18s. to 21s., or even less, where the men do smoke and do spend money upon drink, and the women do spend money on dress and recreation, and yet, in spite of it all, they seem happy and contented, and the men make good workmen!" Such arguments against the actual pressure and the consequences of poverty will, however, upon closer investigation be found to be illusory. They come amongst a class of arguments against which Bastiat, the French economist, warned his readers in a series of articles entitled, "That which is seen, and that which is not seen." In these articles the writer pointed out the danger of forming judgments upon social and economic questions without thoroughly investigating them.

In the argument referred to above, the money spent by the poor upon drink, dress, or recreation is one of the "things that are seen." There are, however, consequences of poverty which are "not seen."

We see that many a labourer, who has a wife and three or four children, is healthy and a good worker, although he only earns a pound a week. What we do not see is that in order to give him enough food, mother and children habitually go short, for the mother knows that all depends upon the wages of her husband.

We see the man go to the public-house and spend money on drink; we do not see the children going supperless to bed in consequence.

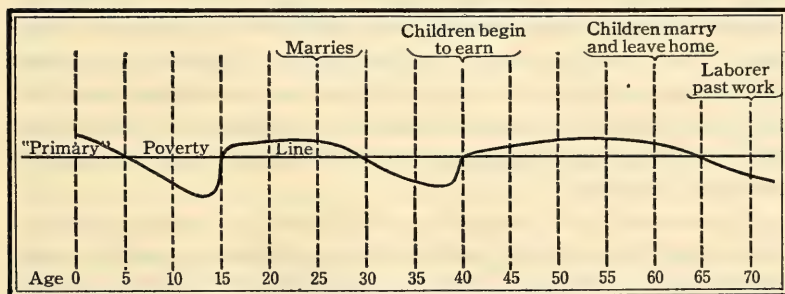
These unseen consequences of poverty have, however, to be reckoned with—the high death-rate among the poor, the terribly high infant mortality, the stunted stature and dulled intelligence,—all these and others are not seen unless we look beneath the surface; and yet all are having their effect upon the poor, and consequently upon the whole country.

period he will be earning more money than is required for lodging, food, and clothes. This is his chance to save money. If he has saved enough to pay for furnishing a cottage, this period of comparative prosperity may continue after marriage until he has two or three children, when poverty will again overtake him. This period of poverty will last perhaps for ten years, i.e. until the first child is fourteen years old and begins to earn wages; but if there are more than three children it may last longer.<sup>1</sup> While the children are earning, and before they leave the home to marry, the man enjoys another period of prosperity—possibly, however, only to sink back again into poverty when his children have married and left him, and he himself is too old to work, for his income has never permitted his saving enough for him and his wife to live upon for more than a very short time.

A labourer is thus in poverty, and therefore underfed—

1. In childhood—when his constitution is being built up.
2. In early middle life—when he should be in his prime.
3. In old age.

The accompanying diagram may serve to illustrate this:



It should be noted that the women are in poverty during the greater part of the period that they are bearing children.

We thus see that the 7230 persons shown by this inquiry to be in a state of "primary" poverty, represent merely that section who happened to be in one of these poverty periods at the time the inquiry was made. Many of these will, in course of time, pass on into a period of comparative prosperity; this will take place as soon as the

<sup>1</sup> It is to be noted that the family are in poverty, and consequently are underfed, during the first ten or more years of the children's lives.



children, now dependent, begin to earn. But their places below the poverty line will be taken by others who are at present living in that prosperous period previous to, or shortly after, marriage. Again, many now classed as above the poverty line were below it until the children began to earn. The proportion of the community who at one period or other of their lives suffer from poverty to the point of physical privation is therefore much greater, and the injurious effects of such a condition are much more widespread than would appear from a consideration of the number who can be shown to be below the poverty line at any given moment.

The above remarks regarding the poverty periods in a labourer's life emphasise the fact that the great opportunity for a labourer to save money is after he has reached manhood, and before marriage. In view of this consideration, it was felt that it would be of interest to ascertain whether the age at which labourers marry is early in comparison with that of other sections of the community.

With this object the writer has obtained particulars regarding the marriages which took place in York during 1898 and 1899, the age and occupation of the bridegroom and the age of the bride being ascertained in each case. In most cases the street in which the bridegroom lived was ascertained, but the name of bride or bridegroom was not ascertained in any case. Information was obtained regarding 1123 marriages of persons belonging to the working class. In the case of 626 of these the bridegrooms were skilled workers, while 497 were unskilled labourers.

An examination of the ages at which these 1123 persons married shows that while nearly one-third of the labourers married under twenty-three years of age, less than one-fifth of the skilled workers did so, and that 58 per cent of the labourers married under twenty-six years as compared with 49 per cent of the skilled workers.

In view of the above figures, it is clear that a considerably larger proportion of labourers than of skilled workers marry young. This fact no doubt indicates how the exercise of prudence and of forethought increases as you advance in the social scale, but two other important causes of early marriages amongst the labouring class must not be overlooked, viz.:

1. The overcrowded condition of the homes from which the labourers chiefly come makes them anxious to have a home of their own, in

which, at any rate, so long as there are no children, they will be free from the many inconveniences inseparable from overcrowded surroundings.

2. Generally speaking the labourers have fewer intellectual interests and pleasures than skilled workers, and doubtless some of them enter upon marriage partly with a view to relieving the monotony of their lives.

### *Immediate Causes of "Secondary" Poverty*

Number of persons living in "secondary" poverty in York	13,072
Percentage of total population . . . . .	18
Percentage of working-class population , . . . .	28

It will be remembered that the amount of "secondary" poverty was arrived at by estimating the total poverty in York, and then subtracting the "primary" poverty, which had been previously ascertained.

The amount of "primary" poverty was based upon a low estimate of the minimum expenditure necessary for the maintenance of physical efficiency. Had a higher estimate been adopted, the effect would have been to increase the proportion of "primary" poverty and to decrease the proportion of "secondary" poverty.

It has been pointed out that in addition to those returned as being in "primary" poverty, there are no fewer than 2312 persons belonging to families with incomes only 2s. above the standard adopted in fixing the "primary" poverty line. In other words, these families are living practically on the "primary" poverty line. Had they been included amongst those returned as being in "primary" poverty, the proportion of "primary" to total poverty would have been raised from 35.6 per cent to 47 per cent, and the proportion of "secondary" to total poverty would have fallen correspondingly from 64.4 per cent to 53 per cent. It is thus seen that the point at which "primary" passes into "secondary" poverty is largely a matter of opinion, depending upon the standard of well-being which is considered necessary. But even if a higher standard were chosen than that adopted (see *supra*, page 532) when fixing the "primary" poverty line, there would still remain a considerable amount of poverty indisputably "secondary" which would appear to be mainly due to the following immediate causes, namely: drink, betting, and gambling, ignorant or

careless housekeeping, and other improvident expenditure, the latter often induced by irregularity of income.

It is not possible to ascertain the proportion of "secondary" poverty assignable to each of the above causes; probably all are factors in the poverty of many households, and they act and react powerfully upon each other. There can be but little doubt, however, that the predominant factor is drink. I have been unable to form any close estimate of the average sum spent weekly upon drink by working-class families in York, but a careful estimate has been made by others of the average sum expended weekly by working-class families throughout the United Kingdom. This average is arrived at, in the first instance, by dividing that portion of the yearly national drink-bill which competent authorities assign to the working classes by the number of working-class families in England. This results in a figure of 6s. 10d. as the average weekly sum spent upon drink by each such family. This estimate has been examined in great detail by Messrs. Rowntree and Sherwell, who have tested the figure in a great number of ways.<sup>1</sup> The result of their investigation is summed up as follows:

That a large proportion of the working classes spend very much less than the amount suggested is certain, but it is equally certain that a considerable number spend very much more, and when all possible deductions have been made, it is doubtful if the average family expenditure of the working classes upon intoxicants can be reckoned at less than 6s. per week.

There is no reason to suppose that the average sum spent upon drink by working-class families in York is lower than the average for the United Kingdom. An expenditure of 6s. per family upon drink would absorb more than one-sixth of the average total family income of the working classes of York.

With regard to betting and gambling, it is obviously not possible to obtain even approximate statistics regarding the extent to which the habit prevails amongst the working classes, or to measure the amount of poverty which it causes. There is, however, ample evidence that it is very largely indulged in not only by working men, but also by women, and, to a lesser extent, even by children.

<sup>1</sup> See *The Temperance Problem and Social Reform*, by Rowntree and Sherwell, 7th and subsequent editions, p. 20. Some of the figures used in forming their estimate were collected in York.

Though we speak of the above causes as those mainly accounting for most of the "secondary" poverty, it must not be forgotten that they are themselves often the outcome of the adverse conditions under which too many of the working classes live. Housed for the most part in sordid streets, frequently under overcrowded and unhealthy conditions, compelled very often to earn their bread by monotonous and laborious work, and unable, partly through limited education and partly through overtime and other causes of physical exhaustion, to enjoy intellectual recreation, what wonder that many of these people fall a ready prey to the publican and the bookmaker? The limited horizon of the mother has a serious effect upon her children; their home interests are narrow and unattractive, and too often they grow up prepared to seek relief from the monotony of their work and environment in the public-house, or in the excitement of betting.

The writer is not forgetful of the larger questions bearing upon the welfare of human society which lie at the back of the considerations just advanced. It would, however, lead into fields of thought beyond the scope of this volume adequately to state these problems. Probably it will be admitted that they include questions dealing with land tenure, with the relative duties and powers of the State and of the individual, and with legislation affecting the aggregation or the distribution of wealth. While the immediate causes of "secondary" poverty call for well-considered and resolute action, its ultimate elimination will only be possible when these causes are dealt with as a part of, and in relation to, the wider social problem.

### *Summary and Conclusion*

*Method and scope of inquiry.* The information regarding the numbers, occupation, and housing of the working classes was gained by direct inquiry, which practically covered every working-class family in York. In some cases direct information was also obtained regarding earnings, but in the majority of cases these were estimated, the information at the disposal of the writer enabling him to do this with considerable accuracy.

*The poverty line.* Having thus made an estimate, based upon carefully ascertained facts, of the earnings of practically every working-class family in York, the next step was to show the proportion of



the total population living in poverty. Families regarded as living in poverty were grouped under two heads: primary poverty and secondary poverty.

To ascertain the total number living in "primary" poverty it was necessary to ascertain the minimum cost upon which families of various sizes could be maintained in a state of physical efficiency. This question was discussed under three heads, viz. the necessary expenditure for (1) food; (2) rent; and (3) all else. It was then shown that for a family of father, mother, and three children, the minimum weekly expenditure upon which physical efficiency can be maintained in York is 2rs. 8d., made up as follows:

	s.	d.
Food . . . . .	12	9
Rent (say) . . . . .	4	0
Clothing, light, fuel, etc. . . . .	4	11
	21	8

The necessary expenditure for families larger or smaller than the above will be correspondingly greater or less. This estimate was based upon the assumptions that the diet is selected with a careful regard to the nutritive values of various food stuffs, and that these are all purchased at the lowest current prices. It only allows for a diet less generous as regards variety than that supplied to able-bodied paupers in workhouses. It further assumes that no clothing is purchased which is not absolutely necessary for health, and assumes too that it is of the plainest and most economical description. No expenditure of any kind is allowed for beyond that which is absolutely necessary for the maintenance of merely physical efficiency. The number of persons whose earnings are so low that they cannot meet the expenditure necessary for the above standard of living, stringent to severity though it is, and bare of all creature comforts, was shown to be no less than 7230, or almost exactly 10 per cent of the total population of the city. These persons, then, represent those who are in "primary" poverty.

The number of those in "secondary" poverty was arrived at by ascertaining the total number living in poverty, and subtracting those living in "primary" poverty. The investigators, in the course of their house-to-house visitation, noted those families who were obviously living in a state of poverty, i.e. in obvious want and squalor. Some-

times they obtained definite information that the bulk of the earnings was spent in drink or otherwise squandered, sometimes the external evidence of poverty in the home was so clear as to make verbal evidence superfluous. In this way 20,302 persons, or 27.84 per cent of the total population, were returned as living in poverty. Subtracting those whose poverty is "primary," we arrive at the number living in "secondary" poverty, viz. 13,072, or 17.93 per cent of the total population.

One naturally asks, on reading these figures, how far they represent the proportion of poverty in other towns. The only statistics which enable us to form an opinion upon this point are those collected in London by Mr. Charles Booth, and set forth in his *Life and Labour of the People in London*. The objects of Mr. Booth's inquiry, as explained by himself, were "to show the numerical relation which poverty, misery, and depravity bear to regular earnings, and to describe the general conditions under which each class lives." In East London Mr. Booth obtained information from the School Board visitors regarding every family scheduled by the Board in which there were children of school age. These families represented about one-half of the working-class population, and Mr. Booth assumed that the condition of the whole population was similar to that of the part tested. In the other districts of London Mr. Booth, in order to complete his inquiry in a reasonable time, was obliged to adopt a rougher classification.

From the information thus obtained, which he checked and supplemented in various ways, Mr. Booth estimated that 30.7 per cent of the total population of London were living in poverty.<sup>1</sup> Supposing, then, that the same standard of poverty had been adopted in the two inquiries, a comparison between the poverty in York and that of London would be possible. From the commencement of my inquiry I have had opportunities of consulting with Mr. Booth, and comparing the methods of investigation and the standards of poverty adopted. As a result I feel no hesitation in regarding my estimate of the total poverty in York as comparable with Mr. Booth's estimate of the total poverty in London, and in this Mr. Booth agrees.

<sup>1</sup> In estimating the poverty in London Mr. Booth made no attempt to differentiate between "primary" and "secondary" poverty.

The proportions arrived at for the total population living in poverty in London and York respectively were as under:

London . . . . .	30.7 per cent
York . . . . .	27.84 per cent

the proportion of the population living in poverty in York may be regarded as practically the same as in London, especially when we remember that Mr. Booth's information was gathered in 1887-1892, a period of only average trade prosperity, whilst the York figures were collected in 1899, when trade was unusually prosperous.

This agreement in result is so striking that it is perhaps best to say that I did not set out upon my inquiry with the object of proving any preconceived theory, but to ascertain actual facts, and that I was myself much surprised to obtain the above result. We have been accustomed to look upon the poverty in London as exceptional, but when the result of careful investigation shows that the proportion of poverty in London is practically equalled in what may be regarded as a typical provincial town, we are faced by the startling probability that from 25 to 30 per cent of the town populations of the United Kingdom are living in poverty. If this be the fact, its grave significance may be realised when it is remembered that, in 1901, 77 per cent of the population of the United Kingdom is returned as "urban" and only 23 per cent as "rural."

*The results of poverty.* The facts regarding the proportion of poverty are perhaps the most important which have been dealt with in this volume, but the conditions under which the poor live, and the effects of those conditions, especially upon their physical stamina, will have also claimed the serious attention of the reader.

*Housing.* It has been shown that in York 4705 persons, or 6.4 per cent of the total population, are living more than two persons to a room, whilst the actual number who are living, and especially sleeping, in rooms which provide inadequate air-space for the maintenance of health is undoubtedly very much greater. Moreover, the impossibility of maintaining the decencies of life in these overcrowded houses is a factor which cannot fail to affect the morals of their inhabitants. The close relation which exists between overcrowding and poverty is indicated by the fact that 94 per cent of the overcrowded families are in poverty either "primary" or "secondary."

*Rent.* Although rents in York are much lower than in many towns, still the proportion of total earnings spent in rent by the working classes in York is high, varying from 9 per cent in the few favoured cases where the total earnings reach or exceed 60s., to 29 per cent for those whose total family earnings fall below 18s. weekly. The average proportion of total family earnings spent in rent by all sections of the working classes in York is over 14 per cent. Although York is not a large city, and freehold land within three miles of the centre of the city may be bought for £60 to £80 an acre, it nevertheless contains slums as degradingly filthy as any to be found in London.

*Relation of poverty to health.* Turning now to the relation of poverty to health, it has been shown in the preceding pages how low is the standard of health amongst the very poor. This was tested not only by the general and infant mortality of the city, but by an examination of the physique of a large number of school children. The inferences drawn from this latter examination are corroborated by the general statistics which refer to the health standard of those who seek enlistment in the army. It therefore becomes obvious that the widespread existence of poverty in an industrial country like our own must seriously retard its development.

*Workmen's household budgets.* Concrete evidence is advanced as to the inadequate nutrition of the poorer sections of the labouring classes. An inquiry into the diet of various sections of the community revealed the facts (1) that the diet of the middle classes is generally more than adequate; (2) that of the well-to-do artisan is on the whole adequate; but (3) that of the labouring class is seriously inadequate. Indeed, the labouring class receive upon the average 25 per cent less food than has been proved by scientific experts to be necessary for the maintenance of physical efficiency. This statement is not intended to imply that labourers and their families are chronically hungry, but that the food which they eat (although on account of its bulk it satisfies the cravings of hunger) does not contain the nutrients necessary for normal physical efficiency. A homely illustration will make the point clear. A horse fed upon hay does not feel hungry, and may indeed grow fat, but it cannot perform hard and continuous work without a proper supply of corn. Just so the labourer, though perhaps not hungry, is unable to do the work which he could easily accomplish upon a more nutritious diet.



As the investigation into the conditions of life in this typical provincial town has proceeded, the writer has been increasingly impressed with the gravity of the facts which have unfolded themselves. That in this land of abounding wealth, during a time of perhaps unexampled prosperity, probably more than one-fourth of the population are living in poverty, is a fact which may well cause great searchings of heart. There is surely need for a greater concentration of thought by the nation upon the well-being of its own people, for no civilisation can be sound or stable which has at its base this mass of stunted human life. The suffering may be all but voiceless, and we may long remain ignorant of its extent and severity, but when once we realise it we see that social questions of profound importance await solution. What, for instance, are the primary causes of this poverty? How far is it the result of false social and economic conditions? If it be due in part to faults in the national character, what influences can be exerted to impart to that character greater strength and thoughtfulness?

The object of the writer, however, has been to state facts rather than to suggest remedies. He desires, nevertheless, to express his belief that however difficult the path of social progress may be, a way of advance will open out before patient and penetrating thought if inspired by a true human sympathy. The dark shadow of the Malthusian philosophy has passed away, and no view of the ultimate scheme of things would now be accepted under which multitudes of men and women are doomed by inevitable law to a struggle for existence so severe as necessarily to cripple or destroy the higher parts of their nature.

## 72. CONDITIONS OF LIFE AND LABOR AMONG THE WAGE-EARNERS OF PITTSBURGH<sup>1</sup>

At the close of the field work in 1908 we summed up under eight heads the results of the Pittsburgh Survey as to the conditions of life and labor among the wage-earners of the American steel district. We found:

<sup>1</sup> By Edward T. Devine. From *The Pittsburgh District Civic Frontage*, pp. 3-4. The Pittsburgh Survey, edited by Paul U. Kellogg. Copyright, 1914, by the Russell Sage Foundation, New York.

I. An altogether incredible amount of overwork by everybody, reaching its extreme in the twelve-hour shift for seven days in the week in the steel mills and the railway switchyards.

II. Low wages for the great majority of the laborers employed by the mills, not lower than in other large cities, but low compared with prices,—so low as to be inadequate to the maintenance of a normal American standard of living; wages adjusted to the single man in the lodging house, not to the responsible head of a family.

III. Still lower wages for women, who receive for example in one of the metal trades, in which the proportion of women is great enough to be menacing, one half as much as unorganized men in the same shops and one third as much as the men in the union.

IV. An absentee capitalism, with effects strikingly analogous to those of absentee landlordism, of which also Pittsburgh furnishes examples.

V. A continuous inflow of immigrants with low standards, attracted by a wage which is high by the standards of southeastern Europe, and which yields a net pecuniary advantage because of abnormally low expenditures for food and shelter, and inadequate provision for the contingencies of sickness, accident, and death.

VI. The destruction of family life, not in any imaginary or mystical sense, but by the demands of the day's work, and by the very demonstrable and material method of typhoid fever and industrial accidents; both preventable, but costing in single years in Pittsburgh considerably more than a thousand lives, and irretrievably shattering nearly as many homes.

VII. Archaic social institutions, such as the aldermanic court, the ward school district, the family garbage disposal, and the unregenerate charitable institution, still surviving after the conditions to which they were adapted have disappeared.

VIII. The contrast—which does not become blurred by familiarity with any detail— . . . between the prosperity on the one hand of the most prosperous of all the communities of our western civilization, with its vast natural resources, the generous fostering of government, the human energy, the technical development, the gigantic tonnage of the mines and mills, the enormous capital of which the bank balances afford an indication; and on the other hand the neglect of life, of health, of physical vigor, even of the industrial efficiency of the individual. Certainly no community before in America or Europe has ever had such a surplus, and never before has a great community applied what it had so meagerly to the rational purposes of human life. Not by gifts of libraries, galleries, technical schools, and parks, but by the cessation of toil one day in seven and sixteen hours in the twenty-four, by the increase of wages, by the sparing of lives, by the prevention of accidents, and by raising the standards of domestic life, should the surplus come back to the people of the community in which it is created.

## CHAPTER XX

### STANDARDS OF LIVING AND WAGE-EARNERS' BUDGETS

#### 73. THE STANDARD OF LIFE<sup>1</sup>

*Necessaries.* It is common to divide wealth into necessities, comforts, and luxuries; the first class including all things required to meet wants which must be satisfied, while the latter consist of things that meet wants of a less urgent character. But here again there is a troublesome ambiguity. When we say that a want must be satisfied, what are the consequences which we have in view if it is not satisfied? Do they include death? Or do they extend only to the loss of strength and vigour? In other words, are necessities the things which are necessary for life, or those which are necessary for efficiency?

The term Necessaries, like the term Productive, has been used elliptically, the subject to which it refers being left to be supplied by the reader; and since the implied subject has varied, the reader has often supplied one which the writer did not intend, and thus misunderstood his drift. In this, as in the preceding case, the chief source of confusion can be removed by supplying explicitly in every critical place that which the reader is intended to understand.

The older use of the term Necessaries was limited to those things which were sufficient to enable the labourers, taken one with another, to support themselves and their families. Adam Smith and the more careful of his followers observed indeed variations in the standard of comfort and "decency": and they recognized that differences of climate and differences of custom make things necessary in some cases, which are superfluous in others. But Adam Smith was influenced by reasonings of the Physiocrats: they were based on the condition of the French people in the eighteenth century, most of whom had no notion of any necessities beyond those which were required for mere

<sup>1</sup> By Alfred Marshall, M.A., LL.D., formerly Professor of Political Economy at Cambridge University. Adapted from *Principles of Economics*, pp. 67-70, 529-532, 689-690. Macmillan & Co., Limited, London, 1920.

existence. In happier times, however, a more careful analysis has made it evident that there is for each rank of industry, at any time and place, a more or less clearly defined income which is necessary for merely sustaining its members; while there is another and larger income which is necessary for keeping it in full efficiency.

It may be true that the wages of any industrial class might have sufficed to maintain a higher efficiency, if they had been spent with perfect wisdom. But every estimate of necessities must be relative to a given place and time; and unless there be a special interpretation clause to the contrary, it may be assumed that the wages will be spent with just that amount of wisdom, forethought, and unselfishness, which prevails in fact among the industrial class under discussion. With this understanding we may say that the income of any class in the ranks of industry is below its necessary level, when any increase in their income would in the course of time produce a more than proportionate increase in their efficiency. Consumption may be economized by a change of habits, but any stinting of necessities is wasteful.

Some detailed study of the necessities for efficiency of different classes of workers will have to be made, when we come to inquire into the causes that determine the supply of efficient labour. But it will serve to give some definiteness to our ideas, if we consider here what are the necessities for the efficiency of an ordinary agricultural or of an unskilled town labourer and his family, in England, in this generation. They may be said to consist of a well-drained dwelling with several rooms, warm clothing, with some changes of underclothing, pure water, a plentiful supply of cereal food, with a moderate allowance of meat and milk, and a little tea, etc., some education and some recreation, and lastly, sufficient freedom for his wife from other work to enable her to perform properly her maternal and her household duties. If in any district unskilled labour is deprived of any of these things, its efficiency will suffer in the same way as that of a horse that is not properly tended, or a steam-engine that has an inadequate supply of coals. All consumption up to this limit is strictly productive consumption: any stinting of this consumption is not economical, but wasteful.

*Conventional necessities.* In addition, perhaps, some consumption of alcohol and tobacco, and some indulgence in fashionable dress are in many places so habitual, that they may be said to be conventionally



necessary, since in order to obtain them the average man and woman will sacrifice some things which are necessary for efficiency. Their wages are therefore less than are practically necessary for efficiency, unless they provide not only for what is strictly necessary consumption, but include also a certain amount of conventional necessities.

The consumption of conventional necessities by productive workers is commonly classed as productive consumption; but strictly speaking it ought not to be; and in critical passages a special interpretation clause should be added to say whether or not they are included. It should however be noticed that many things which are rightly described as superfluous luxuries, do yet, to some extent, take the place of necessities; and to that extent their consumption is productive when they are consumed by producers.

### *Relation of Standard to Work and Wages*

There is a certain consumption which is strictly necessary for each grade of work in this sense, that if any of it is curtailed the work cannot be done efficiently: the adults might indeed take good care of themselves at the expense of their children, but that would only defer the decay of efficiency for one generation. Further there are conventional necessities, which are so strictly demanded by custom and habit, that in fact people generally would give up much of their necessities, strictly so called, rather than go without the greater part of these. Thirdly there are habitual comforts, which some, though not all, would not entirely relinquish even when hardly pressed. Many of these conventional necessities and customary comforts are the embodiment of material and moral progress. Their extent varies from age to age and from place to place.

Most of that expenditure which is not strictly economical as a means towards efficiency, yet helps to form habits of ready resourceful enterprise, and gives that variety to life without which men become dull and stagnant, and achieve little though they may plod much; and it is well recognized that even in western countries skilled labour is generally the cheapest where wages are the highest. It may be admitted that the industrial development of Japan is tending to show that some of the more expensive conventional necessities might conceivably be given up without a corresponding diminution of efficiency:

but, though this experience may be fruitful of far-reaching results in the future, yet it has little bearing on the past and the present. It remains true that, taking man as he is, and has been hitherto, in the western world the earnings that are got by efficient labour are not much above the lowest that are needed to cover the expenses of rearing and training efficient workers, and of sustaining and bringing into activity their full energies.

We conclude then that an increase of wages, unless earned under unwholesome conditions, almost always increases the strength, physical, mental, and even moral of the coming generation; and that, other things being equal, an increase in the earnings that are to be got by labour increases its rate of growth; or, in other words, a rise in its demand-price increases the supply of it.<sup>1</sup>

### *Standard of Life*

The term the standard of life is here taken to mean the standard of activities adjusted to wants. Thus a rise in the standard of life implies an increase of intelligence and energy and self-respect; leading to more care and judgment in expenditure, and to an avoidance of food and drink that gratify the appetite but afford no strength, and of ways of living that are unwholesome physically and morally. A rise in the standard of life for the whole population will much increase the national dividend, and the share of it which accrues to each grade and to each trade. A rise in the standard of life for any one trade or grade will raise their efficiency and therefore their own real wages: it will increase the national dividend a little; and it will enable others to obtain their assistance at a cost somewhat less in proportion to its efficiency.

But many writers have spoken of the influence exerted on wages by a rise not in the standard of life, but in that of comfort;—a term that may suggest a mere increase of artificial wants, among which perhaps the grosser wants may predominate. It is true that every broad improvement in the standard of comfort is likely to bring with it a better manner of living, and to open the way to new and higher

<sup>1</sup> Wages tend to equal the net product of labour; its marginal productivity rules the demand-price for it; and, on the other side, wages tend to retain a close though indirect and intricate relation with the cost of rearing, training, and sustaining the energy of efficient labour.

activities; while people who have hitherto had neither the necessities nor the decencies of life, can hardly fail to get some increase of vitality and energy from an increase of comfort, however gross and material the view which they may take of it. Thus a rise in the standard of comfort will probably involve some rise in the standard of life; and, in so far as this is the case, it tends to increase the national dividend and to improve the condition of the people.

Some writers however of our own and of earlier times have gone further than this, and have implied that a mere increase of wants tends to raise wages. But the only direct effect of an increase of wants is to make people more miserable than before. And if we put aside its possible indirect effect in increasing activities, and otherwise raising the standard of life, it can raise wages only by diminishing the supply of labour.

#### 74. THE STANDARD OF LIVING AND ENGEL'S LAW<sup>1</sup>

Satisfactorily to define the standard of living is extremely difficult. Professor Charles J. Bullock, for instance, writes, "Each class of people in any society is accustomed to enjoy a greater or less amount of the comforts or luxuries of life. The amount of comforts or luxuries customarily enjoyed by any class of men forms the 'standard of living' of that class."<sup>2</sup> That is to say, the standard of living, as the expression is usually understood, consists simply of what men actually do enjoy. On the other hand, there always are felt but unsated wants that prompt men to struggle for higher wages; these reasonable unfilled desires are the motive power of progress.

Professor Bullock's definition is particularly valuable in suggesting two important truths. First, it properly emphasizes comforts and luxuries. The fact is that in every-day affairs effort is often directed more to securing superfluities than to providing necessities. In the second place, the extent and content of the unsated wants in a man's ideal standard is largely determined by actual satisfactions. This truth is emphasized by Mr. Frank Tucker when he says, "A standard

<sup>1</sup> By Frank Hatch Streightoff, Associate Professor of Business Administration in Indiana University. Adapted from *The Standard of Living among the Industrial People of America*, pp. 2-8, 12-13, 20. Houghton Mifflin Company, Boston and New York, 1911. Copyright, 1911, by Hart, Schaffner & Marx; all rights reserved.

<sup>2</sup> *Introduction to the Study of Economics*, p. 126.

of living is a measurement of life expressed in a daily routine which is determined by income and conditions under which it is earned, economic and social environment, and the capacity for distributing the income."<sup>1</sup>

Having noted these fundamental principles, it is possible to take another step. Each individual has his own more or less rational concept of what is essential to the maintenance of his own social position; and he knows exactly what this position is, whether he be the bank clerk who delights in horse-races, or the man who shares the same desk and plays on his Sunday-school ball team. They live in different worlds, they have individual criteria: so each man has his own standard of living. But it will be noted that the bank clerks as a class have some wants in common in contrast to the mechanics, for instance. Thus the class standard of living may be compared to a composite photograph; certain features are emphasized, while others are faint or blurred according to the proportion of individuals possessing the character—or feeling the want. On the other hand, development of the individual is so largely influenced by his environment that his notions are, in the main, those of his class. So the class standard of living is the product of the ideals and resources of its members, and, in turn, modifies their criteria.

But class is not the only factor within the community in the development of the individual's ideal standard of living. Aside from its large determining influence in the matter of class membership, income has an important part to play; purchasing power limits the quality and quantity of obtainable satisfactions. So the individual's ideal is limited by his income; the higher he climbs on the ladder of success, the wider is his view; the more he sees, the more he seeks.

Another determinant of the standard of living is the progress of civilization. There is a constant, though irregular, rise of the standard of living as civilization becomes more complex. The standard, then, is a result of two forces, environment, comprising time, income, and class, and individuality.

It will not do, however, to leave the problem at this point. As the standard determines the manner of living, it is important to distinguish between worthy and unworthy, or high and low standards. It may reasonably be doubted whether the standards of the very rich are

<sup>1</sup> *Charities and the Commons*, Vol. XVII, p. 300.



ideally any higher than those of industrial workers. A normal standard of living, on the other hand, is one which conduces to healthy symmetrical development, physical, mental, and moral. The standard is properly counted ideally high in proportion as it achieves this end, and especially as its emphasis falls upon the intellectual and moral elements.

What, then, is the content of the lowest tolerable standard of living? In the first place, there must be food, clothing, and shelter sufficient to maintain economic efficiency. Even those persons who believe that the sole end of existence is production, must grant this proposition, at least in its general application. Under shelter is included light, fuel, and necessary furniture. If economic efficiency is to be preserved, there must be provision against sickness and unemployment; for, unless his strength is maintained during idleness, when he returns to work the individual is unfit for his stint.<sup>1</sup> Moreover, the man's standard must include a family, else, in a generation, production will cease.

But this view of the purpose of man is far too narrow. Few people would to-day have the hardihood to deny that man's life should contain the largest possible amounts of wholesome pleasure. "One of the strongest human wants is the desire for the society of one's fellows."<sup>2</sup> This means that with a normal standard of living the house should contain a room fit for entertainment of company, that the family should have clothes which will enable them to appear in public without shame, and that the routine should include some leisure for polite intercourse. Still if man is to be an end in himself, he must have more than this; he needs some education, books, pictures, and wholesome recreation; he must have time for home life. Modern scientific charity recognizes a very real social value in the home. Beside all these things, a normal standard of living contains provision for all emergencies, sickness, accident, unemployment, and death, and for material advance—savings: religion too should be in the routine. So the ideal standard of living demands the satisfaction of reasonable wants of both body and intellect, and includes an ambition to improve.

A clear understanding of what the standard of living is permits some appreciation of its significance. In the first place, unless the standard includes adequate food, clothing, and shelter, health will inevitably

<sup>1</sup>Ninth Special Report of the Commissioner of Labor, 1897, *Italians in Chicago*, pp. 44-46.

<sup>2</sup>Bullock, *Introduction to the Study of Economics*, p. 8c.

suffer and the race will degenerate physically. If, on the contrary, men obtain a proper satisfaction of these fundamental wants, not only will health be preserved and improved, but a foundation will be laid for intellectual progress. A step farther may be taken along this line: unless they believe that their descendants will be able to maintain the parental standard, men will, if thoughtful, refuse to become fathers. Again, if women would rather dress showily than enjoy homes of their own, married or unmarried, they will refuse to assume the burden of motherhood.<sup>1</sup> Thus, in two distinct ways, the standard of living tends to determine population. By this limiting of propagation, the standard of living limits the number of wage-workers, and so, if high enough, it can change the ratio of supply to demand for labor and thus raise compensation. In a much more simple and direct way, however, the desire for a higher standard of living decides the minimum pay demanded by trades unions and operates to increase earnings. More satisfactions will breed new wants, yet higher wages will be sought, and so the process will continue. In this way the "ideal" standard of living is the key to the material progress of the industrial classes.

Moreover, "in most cases increased wages have meant the gratification of the intellectual and artistic sense of the workers; have meant books and pictures; have meant a few extra rooms in the house and more decent surroundings generally; have meant a few years extra schooling for the children; have meant, finally, a general uplifting of the whole working class."<sup>2</sup> The pursuit of a higher standard of living is, then, the inspiration of intellectual advance; upon it depends the physical and mental and moral welfare of the people, the development of the commonwealth. Two things, therefore, are essential to the progress of a nation: first, that the individuals receive so much material wealth as will enable them to satisfy their reasonable wants, and, second, that they continually discover new and wholesome desires.

### *Engel's Law*

It is the object of these inquiries to determine how much working-men spend, and how they spend it. The classical effort in this field,

<sup>1</sup> Van Vorst, *The Woman Who Toils*, chap. ii.

<sup>2</sup> Mitchell, *Organized Labor*, p. 153.

the model of all subsequent study, was the achievement of Dr. Engel,<sup>1</sup> who, in 1857, compared the budgets in Le Play's famous "Family Monographs," added data of his own, and formulated his schedule of the normal distribution of expenditures in their relation to income.

#### ENGEL'S TABLE OF PROPORTIONATE EXPENDITURES

Object: Percentage of the expenditure for family of a man with income of:

	\$225-\$300	\$450-\$600	\$750-\$1000
Subsistence . . . . .	62	55	50
Clothing . . . . .	16	18	18
Lodging . . . . .	12	12	12
Firing and lighting . . . . .	5	5	5
Education, religion, etc. . . . .	2	3.5	5.5
Legal protection . . . . .	1	2.	3.
Care of health . . . . .	1	2.	3.
Comfort, recreation . . . . .	1	2.5	3.5
	95	90	85
	5	10	15

From this table Engel deduced four famous laws:

1. As the income of a family increased, a smaller percentage of it was expended for food.

2. As the income of a family increased, the percentage of expenditure for clothing remained approximately the same.

3. With all the incomes investigated, the percentage of expenditure for rent, fuel, and light remained invariably the same.

4. As the income increased in amount a constantly increasing percentage was expended for education, health, recreation, amusements, etc.<sup>2</sup>

Engel's laws need considerable modification before they can be applied to American workingmen of the present time. They may be restated thus:

As the income increases:

1. The proportionate expenditure for food

(a) decreases for the country at large from 50 per cent to 37 per cent, but

<sup>1</sup>Ernst Engel (1821-1896) had, as a student, accompanied Le Play on some of his excursions, and recalled them in 1895 as red-letter days (*Lichtpunkte meines Lebens*). He was, in 1850, placed at the head of the Saxon Statistical Bureau, and in 1857, in an effort to estimate the balance between production and consumption in the kingdom, made a thorough statistical elaboration of the figures of Ducpétiaux and Le Play." See page 11 of Chapin's *Standard of Living*.—Ed.

<sup>2</sup>Bullock, *Introduction to the Study of Economics*, pp. 99-100.

- (b) in New York City, it amounts to almost 45 per cent of the total outlay until an income of \$1000 is attained.
2. There is a strong tendency for the percentage of expenditure for clothing to increase.
  3. Relative expenditures for housing
    - (a) remain about constant for the country at large, falling very slightly after \$400 incomes have been reached, but
    - (b) decrease rapidly from 30 per cent, or more, to 16 per cent in New York City.
  4. Proportionate expenditures for fuel and light decrease.
  5. Expenditure for culture wants increases absolutely and relatively.

## 75. PIONEER STUDIES OF FAMILY BUDGETS<sup>1</sup>

The distressing condition of the laborers of England at the end of the eighteenth century gave rise to much discussion of wages, prices, and the poor laws. Two works of this period are notable for their attempts to get at the exact facts by means of reports of actual family budgets. These books are Davies' *Case of the Laborers in Husbandry* (1795), and the better known *State of the Poor*, by Sir Frederick Morton Eden (1797).

Davies was a clergyman in Barkham, Berkshire, and the purpose of his book is indicated by its motto: "The labourer is worthy of his hire." Davies collected accounts on his visits to families of his parish in the spring of 1787. Six of them he printed and sent around to friends throughout England, asking them to get similar accounts in their own localities. These friends for the most part were clergymen and country squires. Their returns were printed in full in the appendix, which contains, with Davies' own contributions, accounts from 15 counties in England, 2 in Wales and 3 in Scotland—133 family budgets in all. The method employed was to set down the weekly costs of bread and other items of food expenditure, with candles and thread. This was added together (8s. 11d. for Davies' first family) and multiplied by 52 (£23 4s. 9d.). To this was added a fixed annual sum covering rent, clothing, fuel, expenses occasioned by sickness,

<sup>1</sup>From *The Standard of Living among Workingmen's Families in New York City* (pp. 5-9), by Robert Coit Chapin, Ph.D., formerly Horace White Professor of Economics and Finance in Beloit College, Wisconsin. Charities Publication Committee, New York, 1909. Copyright, 1909, by the Russell Sage Foundation.



deaths, and births,—estimated in 1787 at 6 pounds (later 7 pounds) for a family of five.

The earnings per week of father, mother, and children were set down and multiplied by 52. In balancing, a deficit appeared in practically every case, even where poor-relief was figured in. It is interesting to note in passing that Davies proposed to have the justices fix a minimum wage (Part III, Section V), and that one of his correspondents complained of the exploitation of the poor by "the harpy claws of pettifogging lawyers," by the short weights of retailers, and by the small loaves of the sellers of bread (p. 163).

Of greater scientific importance is Eden's *State of the Poor*.<sup>1</sup> Besides getting information through clergymen and other friends, he sent out "a competent person" and furnished him with an exhaustive questionnaire. His question-sheet included these questions: "Usual diet of labourers"; "Earnings and expenses of labourer's family for a year; distinguishing the number and ages of family; and price and quantity of their articles of consumption." This "faithful and intelligent person" he kept in the field for more than a year, going the round of the English counties. The budgets, from whatever source derived, are published, 54 of them collectively, in Appendix XII, Vol. III of Eden's work, and perhaps as many more sandwiched in between the workhouse accounts and the "parochial reports" (Volumes II and III). Engel found 73 of them complete enough to tabulate and average. The method is the same as Davies': a weekly statement of earnings, multiplied by 52; a weekly statement of cost of food, multiplied by 52; an annual statement for other items of expenditure, but figured independently for each family. Fifty-seven of the 73 summarized by Engel reported a deficiency; 19 spent more for food than their total earnings. The method of calculating food-expenditures may explain this result, although food-prices in 1795 were exceptionally high.

The difficulties of collecting information regarding family expenditures are well stated by Eden.

It must be confessed that the whole annual earnings of the laborer can seldom be ascertained with great precision. Some men are so habitually careless that they are totally unable to give any satisfactory information;

<sup>1</sup> Marx says that Eden is the only disciple of Adam Smith that produced a work of importance.—*Capital* (English translation), Vol. II, p. 269.

others, who could give tolerable answers, think that inquiries concerning them can have no important object in view, and are therefore inaccurate; and a third class (which is by far the most numerous), are so apprehensive that the ultimate object of questioning them is to effect a reduction in wages, or something equally disagreeable, that they are unchangeably mysterious and insincere.<sup>1</sup>

No marked improvement on Eden's method appears until the second quarter of the nineteenth century. Then we have the remarkable work of Le Play,<sup>2</sup> who carried the intensive study of family accounts to the highest degree of excellence. From 1829 to 1856 he spent a large portion of his vacations (he was professor of metallurgy in Paris), in traveling through the countries of Europe, studying the condition of workingmen's families. His method was to make in each place careful inquiry of clergy, teachers, and others until he found what was considered to be a really typical family, whether a Sheffield cutler or a Dutch fisherman, and then he would arrange to live with the family for some weeks if necessary, observing their whole manner of living. He would ask questions, make notes of what he saw and heard, and when he had gathered his material, would prepare a family monograph, containing in fifteen or twenty octavo pages a photographic picture of the given family group. In 1855 he published thirty-six of these monographs in three volumes, entitled *Les Ouvriers Européens*. He subsequently (1877-1879) added two volumes of monographs and one introductory volume on method. He made studies during the long period of his activity of some 300 families, but carried only fifty-seven of them to the point where he was willing to have them published. The schedule he employed displays the thoroughness of his method. The only criticisms that can fairly be made are: first, that the families are not necessarily typical; second, that the details are carried to an illusive degree of overrefinement. For instance, the festival-clothes of his Dutch family are valued, and one-hundredth of the value is set down in the annual budget, implying that they will last one hundred years. Some hint of his tact in winning the confidence of the families that he approached may be gained

<sup>1</sup> *State of the Poor*, Preface to Vol. I, p. xxvi.

<sup>2</sup> Le Play was born in 1806, and died in 1882. A good account of his work, by Henry Higgs, may be found in the *Quarterly Journal of Economics*, Vol. IV, p. 408.

from his statement of the expedients which he used for this purpose. Le Play says<sup>1</sup> that he always had the good-will even affection, of families investigated, and thinks that it was due to the method; but he observed the following expedients for gaining the good-will of the families:

Not to be abrupt in pushing inquiries,—an introduction from a well-chosen source helps in abridging the preliminaries; to secure the confidence and sympathy of the family by explaining the public utility of the inquiry, and the disinterestedness of the observer; to sustain the attention of the people by interesting conversation; to indemnify them in money for time taken by the investigation; to praise with discrimination the good qualities of different members; to make judicious distribution of little gifts to all.<sup>2</sup>

The work of Le Play was continued by his followers in a serial publication entitled *Les Ouvriers des Deux Mondes*. The volumes are made up of family monographs prepared on the same plan as those of Le Play himself. Ninety-one of these monographs are included in the ten volumes of the series published. The last volume, the tenth, appeared in 1899.

The transition to the use of the average in combining workingmen's budgets passed through three stages: First, the Brussels Statistical Congress, in 1853; second, the preliminary inquiry in Belgium under direction of Ducpétiaux, in 1853; third, the elaboration of the data of Ducpétiaux and Le Play by Ernst Engel, in 1857.

## 76. MINIMUM OF SUBSISTENCE AND MINIMUM COMFORT BUDGET<sup>3</sup>

Various students of the subject have endeavored to establish the amount of income necessary to support a family in health and decency. In doing so several budget levels of living have been analyzed. The two most clearly distinguished are:

<sup>1</sup>*La Methode Sociale*, 1879, pp. 222, 223. (Vol. I of *Les Ouvriers Européens*, edition of 1879.)

<sup>2</sup>A translation of one of Le Play's monographs may be found in Appendix VII, p. 326, of Robert C. Chapin's *Standard of Living in New York City*.—ED.

<sup>3</sup>Published in the *Report on the Steel Strike of 1919*, from report made by the Bureau of Applied Economics, Washington, D. C., November, 1919, for the Commission of Inquiry, Interchurch World Movement, Bishop Francis J. McConnell, Chairman. Appendix A, pp. 255-263. Copyright, 1920, by Harcourt, Brace and Howe, Inc., New York.

1. *The minimum of subsistence level.* This level is based essentially on animal well being with little or no attention to the comforts or social demands of human beings.

2. *The minimum of comfort level.* This represents a level somewhat above that of mere animal subsistence and provides in some measure for comfortable clothing, insurance, a modest amount of recreation, etc. This level provides for health and decency but for very few comforts, and is probably much below the idea had in mind in the frequent but indefinite expression "The American Standard of Living."

All of the studies have taken as a basis a family of five—husband, wife, and three children. This is done (1) because the average American family is of this size and (2) because it is necessary that marriage should be practically universal and result in a minimum of three children if the race is to perpetuate itself.

The results of the various studies are closely similar and indicate that the annual cost of maintaining a family of five at a minimum of subsistence level at prices prevailing in the latter part of 1919 was approximately \$1575. This would be equivalent in purchasing power to approximately \$885 in 1914.

The cost of maintaining the minimum of comfort level has not been so thoroughly studied. Professor Ogburn's estimate as of June, 1918, was \$1760. With an increase of 15 per cent in living costs since that time the cost of this budget would now be approximately \$2000. This sum would be equivalent in purchasing power to approximately \$1125 in 1914. Professor Ogburn's conclusions may be taken as a conservative minimum, as it is much below the estimate recently put forth by the United States Bureau of Labor Statistics as to the cost of maintaining a government employee's family in Washington at a level of health and decency. This budget, at August, 1919, prices, cost \$2262.

All of the studies referred to dealt with larger Eastern cities, chiefly New York. The costs would, therefore, not be strictly applicable to all cities and towns of the country. The differences, however, except in a few exceptional cases, would not be very great.

A more detailed analysis of these studies is made in the following paragraphs:



### 1. *The Cost of a Minimum of Subsistence Budget*

Professor W. F. Ogburn, of Columbia University, and one of the best known authorities on cost of living, in a recently published article made a very careful analysis of all preceding studies of minimum of subsistence levels and also submits a carefully prepared budget of his own.<sup>1</sup> Professor Ogburn's calculations are all based on prices prevailing in June, 1918. Prices between that time and the autumn of 1919 have advanced about 15 per cent, and these changes, of course, would have to be taken into consideration in arriving at the cost of the budgets at the present time. In order, however, to make the reasoning entirely clear the details of the various studies are first summarized from Professor Ogburn's article.

#### a. PROFESSOR OGBURN'S BUDGET

Food . . . . .	\$.615
Clothing:	
Man . . . . .	76
Woman . . . . .	55
11 to 14 years . . . . .	40
7 to 10 years . . . . .	33
4 to 6 years . . . . .	30
Rent . . . . .	180
Fuel and light . . . . .	62
Insurance . . . . .	40
Organizations . . . . .	12
Religion . . . . .	7
Street-car fare . . . . .	40
Papers, books, etc. . . . .	9
Amusements, drinks, and tobacco . . . . .	50
Sickness . . . . .	60
Dentist, oculist, glasses, etc. . . . .	3
Furnishings . . . . .	35
Laundry . . . . .	4
Cleaning supplies . . . . .	15
Miscellaneous . . . . .	20
<i>Total</i> . . . . .	<u>\$1386</u>

This budget is for a large eastern city and is the result of studies of 600 actual budgets of shipyard workers in the New York ship-building district.

<sup>1</sup>Published in *Standards of Living*, Bureau of Applied Economics, Washington, 1919.

*b. Professor Chapin's budget brought up to date.* Another way of estimating a minimum budget for the American subsistence level in 1918 is to take minimum budgets of past years that have been accepted as standard and apply the increases from the date of the budget to the present time in the prices of the various items of the budget, thus bringing them up to date. This method assumes no change in minimum standards. It is of course subject to possible inaccuracies in measuring the rising cost of living between specific dates for specific places. This inaccuracy is thought to be slight, however.

For instance, one of the most famous and perhaps most generally accepted budget estimates is that of Professor Chapin, who made a study lasting several years of New York families, publishing his result in 1907. He said, "An income under \$800 is not enough to permit the maintenance of a normal standard. An income of \$900 or over probably permits the maintenance of a normal standard at least as far as the physical man is concerned." If we take the increase in the cost of living from 1907 to June, 1918, to be 55 per cent, then Chapin's \$900 becomes \$1395. If we take the increase to be 60 per cent then Chapin's \$900 becomes \$1440. Probably the best estimates of increasing cost of living place the increase from January 1, 1915, to June 1, 1918, as 55 per cent.

*c. Minimum budget of New York Factory Commission brought up to date.* In 1915 the New York State Factory Investigation Commission set a minimum budget for 1914 in New York City at the figure \$876. Applying increases in items of the budget by classes from January 1, 1915, to June 1, 1918, we get, as seen from the following table, a budget of \$1356.

	BUDGET, NEW YORK FACTORY COMMISSION, 1914	INCREASE IN COST OF LIVING TO JUNE 1, 1918	NEW YORK FACTORY BUDGET BROUGHT UP TO DATE
		Per Cent	
Food . . . .	\$325	65	\$536
Rent . . . .	200	29	258
Fuel and light .	20	44	28
Clothing . . .	140	76	246
Sundries . . .	191	51	288
	\$876		\$1356

MINIMUM BUDGET OF THE NEW FACTORY INVESTIGATION  
COMMISSION, 1915

Estimate of Cost of Living of Normal Family of Five in New York City

Food . . . . .	\$325.00
Rent . . . . .	200.00
Fuel and light . . . . .	20.00
Clothing . . . . .	140.00
Car fare . . . . .	31.20
Insurance :	
Man . . . . .	20.00
Family . . . . .	15.60
Health . . . . .	22.00
Furnishings . . . . .	7.00
Education, newspaper . . . . .	5.63
Recreation and amusement . . . . .	50.00
Miscellaneous . . . . .	40.00
<i>Total</i> . . . . .	<u>\$876.43</u>

*d. Minimum budget of New York Board of Estimate brought up to date.* In February, 1915, the Bureau of Personal Service of the Board of Estimate and Apportionment of New York City made a minimum budget estimate for an unskilled laborer's family in New York City of \$845. Applying increases in items of the budget by classes from January 1, 1915, to June 1, 1918, we get, as seen from the following table, a budget of \$1317.

	BUDGET, NEW YORK BOARD OF ESTIMATE, 1915	INCREASE IN COST OF LIVING TO JUNE 1, 1918	NEW YORK BOARD OF ESTIMATE BUDGET BROUGHT UP TO DATE
		Per Cent	
Food . . . . .	\$384	65	\$634
Rent . . . . .	168	29	217
Fuel and light . . . . .	43	44	62
Clothing . . . . .	104	76	183
Sundries . . . . .	146	51	221
<i>Total</i> . . . . .	<u>\$845</u>		<u>\$1317</u>

It is possible to criticize this budget as being too low in allowances for health, furniture, and education, and very low indeed in other sundries.

## BUDGET OF NEW YORK BOARD OF ESTIMATE, 1915

Housing . . . . .	\$168.00
Car fare . . . . .	30.30
Food . . . . .	383.81
Clothing . . . . .	104.20
Fuel and light . . . . .	42.75
Health . . . . .	20.00
Insurance . . . . .	22.88
Papers and other reading matter . . . . .	5.00
Recreation . . . . .	40.00
Furniture, utensils, fixtures, moving expenses, etc. . . . .	18.00
Church dues . . . . .	5.00
Incidentals—soap, washing material, stamps, etc. . . . .	5.00
<i>Total</i> . . . . .	<u>\$844.94</u>

*e. Estimating the budget from food expenditure.* It is generally accepted that a man at moderate physical labor needs 3500 calories a day and Atwater has estimated the needs of the individual members of his family in per cents of his needs. Thus his wife consumes 0.8 as much; a boy of 16 years of age, 0.9 as much; a girl 15 to 16 years, 0.8; a child from 6 to 9 years, 0.5; and so on. We thus express a family in terms of adult males. We say that a family of five—man, wife, and three children—will equal 3.3 adult males when the children are at a certain age.

The average food budget of 600 families of shipyard workers in the New York district collected by the Bureau of Labor Statistics was found to cost \$607 for 3.6 equivalent adult males. This was submitted to calory analysis and yielded 3115 calories of energy for man per day, not including any waste. This means that \$607 did not furnish enough food for the New York families. A food expert might have bought the necessary amount, but the families in actual practice did not.

Dietaries should be well balanced also, but this analysis was not undertaken. So the important conclusion results that in the New York shipbuilding area \$607 is not enough of an allowance for food.

Professor Chapin's study shows that at the point where the families cease to be undernourished, food is 44 per cent of the total budget. Now if the low figure of \$615 is taken as the food allowance for a family of 3.3 or 3.4 equivalent adult males and estimated at 44 per cent of the budget, we get a minimum budget of \$1396.



*Summary of Estimates on Minimum Budgets for American  
Subsistence Level in 1918*

From three angles, therefore, an estimate may be formed of a minimum budget; (1) from study of actual budgets, (2) from applying increased costs of living to recognized standard budgets, (3) from estimates of adequate food allowance and its percentage of expenditures.

These estimates for New York district in 1918 are as follows:

1. Ogburn's detailed budget from family studies . . . . \$1386
2. Chapin's budget brought to date . . . . . 1395
- New York Factory Investigation Commission budget  
brought to date . . . . . 1356
- New York Board of Estimate budget brought to date . . 1317
3. Budget compiled from food allowance . . . . . 1396

*The above studies brought up to 1919.* The above estimates were all made as of June, 1918, or, if made at an earlier date, were brought up only to that date in Professor Ogburn's analysis. Between June, 1918, and the present time (i.e. the latter part of 1919) figures compiled by the United States Bureau of Labor Statistics show an increase of about 15 per cent in general cost of living. Applying this percentage increase to the figures compiled by Professor Ogburn in the preceding table, the following results are obtained:

VARIOUS AUTHORITATIVE ESTIMATES OF THE ANNUAL COST OF MAINTAINING A FAMILY AT A MINIMUM OF SUBSISTENCE LEVEL, BROUGHT UP TO AUGUST, 1919

	JUNE, 1918	AUGUST, 1919
Ogburn's budget . . . . .	\$1386	\$1594
Chapin's budget . . . . .	1395	1604
New York Factory Investigation Commission . .	1356	1559
New York Board of Estimate budget . . . .	1317	1515
Budget compiled from food allowance . . . .	1396	1605
Average of all five estimates . . . . .	\$1370	\$1575

Inasmuch as these various estimates are so closely similar, the average of the five—namely \$1575—may be taken as the approximate amount necessary to maintain a family of five at a minimum of subsistence level at prices prevailing in the latter part of 1919.

## 2. *The Cost of a Minimum of Comfort Budget*

1. *Professor Ogburn's budget.* Professor W. F. Ogburn prepared in 1918, for the consideration of the National War Labor Board and of Judge Samuel Alschuler, arbitrator in the Chicago packing house industries, a budget for an average workingman's family of five which would include not only subsistence requirements but a minimum of comfort and recreation. The cost of this budget was placed at \$1760. This was at prices prevailing in June, 1918. Since that date the cost of living, as above noted, has increased 15 per cent. This would make the present cost of the budget \$2024. By major items, this budget was distributed as follows:

	COST JUNE, 1918	COST AUGUST, 1919
Food . . . . .	\$625.00	
Clothing . . . . .	313.50	
Rent, fuel, and light . . . . .	295.00	
Sundries . . . . .	527.00	
<i>Total . . . . .</i>	<i>\$1760.50</i>	<i>\$2024.00</i>

2. *United States Bureau of Labor Statistics' budget for government employee's family.* The United States Bureau of Labor Statistics has just published, after very considerable investigation, a quantity and cost budget for a Government employee's family in Washington, D.C. The budget level aimed at is one of health and decency<sup>1</sup>—that is to say—a level at which the family will have just enough to maintain itself in health and decency, but with none of the "trimmings" and very few of the comforts of life. This budget had in mind primarily the clerical employee, but except possibly in the matter of clothes there seems no reason why the level of a clerical worker should be more costly than that of a mechanic or laborer. On the other hand, Washington prices were undoubtedly above the average for the country as a whole.

This budget, at August, 1919, prices, cost \$2262. The distribution of its principal items is shown in the following table:

<sup>1</sup>In this "Tentative Quantity and Cost Budget" the comforts include clothing sufficient "to maintain the wearer's instinct of self-respect," also insurance against death, disability, and fire, good education for the children, some amusement, and some expenditures for self-development.—ED.

## SUMMARY OF BUDGET

## Cost of Quantity Budget at Market Prices

I. Food . . . . .	\$773.93
II. Clothing:	
Husband . . . . .	\$121.16
Wife . . . . .	166.46
Boy (11 years) . . . . .	96.60
Girl (5 years) . . . . .	82.50
Boy (2 years) . . . . .	47.00
III. Housing, fuel, and light . . . . .	513.72
IV. Miscellaneous . . . . .	428.00
Total budget at market prices . . . . .	546.82
	<u>\$2262.47</u>

Possible saving upon market cost by a family of extreme thrift, of high intelligence, great industry in shopping, good fortune in purchasing at lowest prices, and in which the wife is able to do a maximum amount of home work

I. Food ( $7\frac{1}{2}$ per cent) . . . . .	\$58.04
II. Clothing (10 per cent) . . . . .	51.37
III. Housing . . . . .	30.00
IV. Miscellaneous . . . . .	97.50
Total economies . . . . .	<u>\$236.91</u>
Total budget minus economies . . . . .	\$2025.56

*Savings.* No provision is made in this budget for savings, other than the original cost of household furniture and equipment, which would average about \$1000 in value. No definite estimate, of course, can be made as to the amount which a low-salaried Government employee should be expected to save. But an average saving of  $12\frac{1}{2}$  per cent of yearly salary during an employee's single and early married life would seem to be the maximum which could be expected. Over a period of, say, 15 years this would result in a total accumulation of about \$2000. Assuming \$1000 of this to be invested in household equipment, there would be a net sum of \$1000 available for investment in a home or in other direct income-producing form. In any case, it would represent an annual income of approximately \$50 per year.

Recognizing the high prices prevailing in Washington, and recognizing also that the Government employee's family may have certain necessary expenses not falling upon the workingman's family, it would seem that the fact that this budget cost \$2662 would tend to confirm the \$2000 minimum comfort budget of Professor Ogburn as conservative for workingmen's families generally in the country as a whole.

77. WAGES IN IRON AND STEEL AND OTHER INDUSTRIES<sup>1</sup>*Wages and Hours in the Steel Industry compared with Other Industries, for the Country as a Whole*

The table on page 572 gives the hourly earnings, full time hours per week, and full time earnings per week, for specified classes of labor in the steel industry and in other important industries for which information in comparable form is available. All figures are for 1919, and, with few exceptions, for the latter part of 1919.

The full time hours per week, it is important to note, are the regular weekly working hours for the occupation. The actual hours worked by individuals and, in consequence, their weekly earnings may be considerably less.

*Pittsburgh District. Wages and Hours of Labor in the Iron and Steel Industry compared with Wages in Other Industries in the Pittsburgh District*

The table on page 573 compares hourly earnings, full time hours per week, and full time weekly earnings in the iron and steel industry with other industries in the Pittsburgh District for which information was available. As available information is not very extensive the comparison was necessarily limited, but is believed to be sufficient to indicate how wage rates and hours of employees in the steel industry compare with other lines of employment.

Inasmuch as the primary comparison desired is one which will bring out the extent to which the relatively high full time weekly earnings in the steel industry may be due to long hours, there is added to a table a column showing how much would be earned by each group for 44 hours per week, at the prevailing hourly rates. In doing so, 44 hours is used as a base simply because a number of trades in the table were already working 44 hours per week. For the purpose of the comparison, of course, it would make no difference what base were chosen.

<sup>1</sup>Published in the *Report on the Steel Strike of 1919*, from report made by the Bureau of Applied Economics, Washington, D. C., November, 1919, for the Commission of Inquiry, Interchurch World Movement, Bishop Francis J. McConnell, Chairman. Appendix B, pp. 264-268. Copyright, 1920, by Harcourt, Brace and Howe, Inc., New York.



# AVERAGE HOURLY EARNINGS AND HOURS PER FULL TIME WEEK IN VARIOUS INDUSTRIES

	AVERAGE HOURLY RATE	FULL TIME HOURS PER WEEK	EARNINGS PER FULL WEEK
<b>IRON AND STEEL</b>			
All employees . . . . .	68.1	68.7	\$46.78
Common labor . . . . .	46.2	74.0	34.19
Other labor (including skilled and semi- skilled) . . . . .	78.4	66.0	51.74
<b>MINING</b>			
<b>1. Anthracite:</b>			
Company miners . . . . .	58.1	51.6	29.98
Contract miners . . . . .	84.2	51.6	43.45
Company miners' laborers . . . . .	52.6	51.6	27.14
Contract miners' laborers . . . . .	63.9	51.6	32.97
Laborers . . . . .	51.9	52.2	26.90
Average for all inside occupations . . . . .	67.3	52.0	35.00
<b>2. Bituminous:</b>			
Miners, hand . . . . .	78.4	47.3	37.08
Miners, machine . . . . .	94.7	48.1	45.55
Loaders . . . . .	80.2	47.4	38.01
Laborers . . . . .	57.5	52.0	29.90
Average for all inside occupations . . . . .	74.4	51.9	38.42
<b>UNITED STATES ARSENALS:</b>			
Common labor . . . . .	46.0	48.0	22.08
All other employees, average . . . . .	76.1	48.0	36.53
<b>BUILDING TRADES:</b>			
Average for all building trades . . . . .	85.4	44.0	37.58
Common labor . . . . .	52.0	44.0	22.88
Bricklayers . . . . .	89.3	44.2	39.47
Carpenters . . . . .	78.2	44.2	34.56
Cement workers and finishers . . . . .	80.8	44.9	36.28
Wiremen, inside . . . . .	79.9	44.3	35.40
Painters . . . . .	76.2	42.8	32.61
Plasterers . . . . .	89.5	43.6	39.02
Plumbers . . . . .	92.4	44.0	40.66
Sheet-metal workers . . . . .	80.9	44.0	35.60
Steam fitters . . . . .	92.8	44.0	40.83
Structural iron workers . . . . .	94.2	44.0	41.45
<b>New York, N. Y.</b>			
Average for all building trades . . . . .	83.5	44.0	36.74

Again, it is important to emphasize that the weekly hours here presented are the regular full time hours per week of the occupation, not the actual hours worked by individuals.

COMPARISON OF EARNINGS PER HOUR, REGULAR FULL TIME HOURS PER WEEK, AND EARNINGS PER FULL TIME WEEK IN VARIOUS INDUSTRIES AND OCCUPATIONS IN THE PITTSBURGH (PA.) DISTRICT

	AVERAGE HOURLY RATE	REGULAR HOURS PER WEEK	EARNINGS PER FULL WEEK	EARNINGS FOR 44 HOURS PER WEEK
<b>IRON AND STEEL:</b>				
All employees . . . . .	72.8	74.2	\$54.02	\$32.03
Common labor . . . . .	48.0	77.8	37.34	21.12
Other labor (including skilled and semi-skilled) . . . . .	87.1	72.1	62.80	38.32
<b>BITUMINOUS COAL MINING:</b>				
Miners, hand . . . . .	78.4	47.3	37.08	34.50
Miners, machine . . . . .	94.7	48.1	45.55	41.67
Loaders . . . . .	80.2	47.4	38.01	35.29
Laborers . . . . .	57.5	52.0	29.90	25.30
Average for all inside occupations	74.4	51.9	38.61	32.74
<b>METAL TRADES:</b>				
Blacksmiths . . . . .	70.0	48.0	33.60	30.80
Boilermakers . . . . .	66.0	50.0	33.00	29.04
Molders, iron . . . . .	75.0	48.0	36.00	33.00
<b>RAILROAD EMPLOYEES:</b>				
Shopmen				
Machinists . . . . .	72.0	48.0	34.56	31.68
Blacksmiths . . . . .	72.0	48.0	34.56	31.68
Boilermakers . . . . .	72.0	48.0	34.56	31.68
Road freight				
Firemen . . . . .	60.0	48.0	28.80	26.40
<b>BUILDING TRADES:</b>				
Laborers				
Building laborers . . . . .	50.0	48.0	24.00	22.00
Hod carriers . . . . .	70.0	44.0	30.80	30.80
Plasterers' laborers . . . . .	70.0	44.0	30.80	30.80
Average for laborers . . . . .	63.3	45.3	28.67	27.85
Bricklayers . . . . .	112.5	44.0	49.50	49.50
Carpenters . . . . .	90.0	44.0	39.60	39.60
Cement finishers . . . . .	82.5	44.0	36.30	36.30
Granite cutters, inside . . . . .	84.4	44.0	37.14	37.14
Wiremen, inside . . . . .	90.0	44.0	39.60	39.60
Painters . . . . .	87.5	44.0	38.50	38.50
Plasterers . . . . .	97.5	44.0	42.90	42.90
Plumbers . . . . .	93.8	44.0	41.27	41.27
Sheet-metal workers . . . . .	90.0	44.0	39.60	39.60
Structural iron workers . . . . .	100.0	44.0	44.00	44.00
<b>STREET RAILWAY EMPLOYEES:</b>				
Motormen and conductors . . . . .	54.0	56.4	30.16	23.76

## CHAPTER XXI

### ANALYSIS OF THE CAUSES OF DEPENDENCY

#### 78. THE STATISTICAL STUDY OF CAUSES OF DESTITUTION<sup>1</sup>

In regard to the causes of poverty, and of the degree of poverty that may be designated as destitution and leads to dependency, there are found in the literature of the social sciences a few formal discussions, but more frequently only remarks made in passing, or more or less obvious implications. The usual manner of treatment is descriptive rather than analytic, and is confined to particular causes and conditions. Professor Warner, one of the few writers who have aimed at a comprehensive treatment of the subject, points out that three tolerably distinct methods of investigation have been tried.<sup>2</sup> First, there is the method of writers like Malthus, Marx, and Henry George, "who from the well-known facts of social organization have sought to deduce the causes tending to poverty." Secondly, there is the study of "the classes not yet pauperized to determine by induction what forces are tending to crowd individuals downward across the pauper line. . . . The best example of such work is probably that of Mr. Charles Booth in his *Labor and Life of the People*. Almost all of the reports of our labor statisticians, the works on occupational mortality and morbidity, and in fact everything of a descriptive nature that has been written about modern industrial society, can be used in this second method of seeking for the causes of poverty." Thirdly, there is the "inductive study of concrete masses of pauperism, usually separating the mass into its individual units, seeking to ascertain in a large number of particular cases what causes have operated to bring about destitution."

<sup>1</sup>By Gustav Kleene, Professor of Economics, Trinity College. Adapted from the *Publications of the American Statistical Association*, Vol. XI, No. 83, pp. 273-285.

<sup>2</sup>*American Charities*, pp. 22-117. See also articles by Professor Warner in Volumes I and IV of the *Publications of the American Statistical Association*.

It is proposed in the following to examine the third method only. This method, that of case-counting, has been applied by Warner to the records of American charity organization societies and by Charles Booth to English paupers. The National Conference of Charities some years ago appointed a committee to prepare a statistical blank for the use of charity organization societies in collecting data for studies of this kind. Mr. Booth sought for each case the "principal or obvious" and one "contributing" cause, and has tabulated his data so as to show the number of cases of pauperism attributable to each cause as principal, and also the number of cases attributable to each combination of principal and contributory cause. The following is taken from his tabulation of almshouse paupers at Stepney :

PRINCIPAL OR OBVIOUS CAUSE	TOTAL	PER CENT	CONTRIBUTORY CAUSES			
			Drink	Pauper Asso- ciation and Heredity	Sick- ness	Old Age
1. Drink . . . . .	80	12.6	—	23	11	11
2. Immorality . . . . .	16	2.5	3	3	3	1
3. Laziness . . . . .	12	1.9	6	5	1	3
4. Incapacity, temper, etc. .	24	3.8	4	5	2	6
5. Extravagance . . . . .	8	1.3	4	2	—	3
6. Lack of work or trade misfortune . . . . .	28	4.4	4	—	5	13
7. Accident . . . . .	30	4.7	4	2	1	14
8. Death of husband . . . .	26	4.1	3	2	10	8
9. Desertion . . . . .	3	.5	3	—	1	1
10. Mental derangement . .	11	1.7	1	2	—	2
11. Sickness . . . . .	169	26.7	24	38	5	41
12. Old age . . . . .	208	32.8	22	18	44	—
13. Pauper association and heredity . . . . .	7	1.1	1	—	2	2
14. Other causes . . . . .	12	1.9	6	6	2	2

Professor Warner gives only the number and percentage of cases attributable to each cause as principal (see Table IV, *American Charities*). He admits that this is unsatisfactory because there are few cases in which destitution has resulted from a single cause, and for many cases "to pick out one cause and call it the most important is a purely arbitrary proceeding." He proposed at one of the meetings



# CAUSES OF POVERTY<sup>1</sup>

## MISCONDUCT VS. MISFORTUNE

LOCALITY	BALTIMORE	BOSTON	BUFFALO	CINCINNATI	NEW YORK	STEEVEN	ST. PANCAS	76 GERMAN CITIES	TOTAL
REPORT OF	C. O. S.	A. C.	C. O. S.	A. C.	C. O. S.	Booth	Booth	Böhmert	
NUMBER OF CASES	1385	2083	8225	4844	1412	634	736	95,845	
YEAR	1890-2	1890-2	1878-92	1890-92	1891	1892	1892	1886	Average
CAUSES	Per Cent	Per Cent	Per Cent	Per Cent	Per Cent	Per Cent	Per Cent	Per Cent	Per Cent
Drink . . . . .	8.0	20.5	7.8	11.1	10.7	12.6	21.9	1.3	11.6
Immorality . . . . .						2.5	6.9		
Shiftlessness and inefficiency . . . . .	13.0	7.2	4.3	12.9	7.2	7.0	13.4		9.2
Crime and dishonesty . . . . .	.8	1.4		1.9	1.4				
Roaming disposition . . . . .	1.4	.8		5.3	3.3			1.4	
Total indicating misconduct . . . . .	23.2	29.9	12.1	31.2	22.6	22.1	42.2	2.7	23.3
Imprisonment of breadwinner . . . . .	.4	1.6	2.0	.7	.6			1.7	
Orphans and abandoned children . . . . .	.9	.7		1.0	.1			5.6	
Neglect by relatives . . . . .	1.7	.9		.8	.5			.6	
No male support . . . . .	4.5	6.0	13.8	7.1	7.2	4.6	2.8	2.5	
Total—Lack of normal support . . . . .	7.5	9.2	15.8	9.6	8.4	4.6	2.8	10.4	8.5
Lack of employment . . . . .	12.5	14.2	27.5	10.5	29.0	4.4	2.2	12.5	
Insufficient employment . . . . .	8.5	5.5	1.7	7.2	6.1				
Poorly paid employment . . . . .	5.0	.9	6.0	4.2	2.5				
Unhealthy and dangerous employment . . . . .	.3	.4		.5					
Total—Unemployment, etc. . . . .	26.3	21.0	35.2	22.4	37.6	4.4	2.2	12.5	20.2
Ignorance of English . . . . .	.4	.8		.8	.4				
Accident . . . . .	4.0	2.9	4.6	2.3	3.3	4.7	2.6	1.1	
Sickness or death in family . . . . .	20.2	24.0	24.6	15.0	18.5	26.7	20.7	45.8	24.4
Physical defects . . . . .	6.0	2.4	5.3	2.5	2.7			2.4	
Insanity . . . . .	.8	.6	.9	.6	.7	1.7	4.3	3.4	
Old age . . . . .	6.0	4.1		3.0	3.3	32.8	23.4	15.8	
Total—Personal incapacity . . . . .	37.4	34.8	35.4	24.2	28.9	65.9	51.0	68.5	43.2
Total indicating misfortune . . . . .	71.2	65.0	86.4	56.2	74.9	74.9	56.0	91.4	72.0
Unclassified or unknown . . . . .	5.6	5.1	1.5	12.6	2.5	3.0	1.8	5.9	

<sup>1</sup> From pages 46 and 47 of the third edition of Amos G. Warner's *American Charities*, as revised by Mary Roberts Coolidge, Ph. D.  
Reprinted by permission of Thomas Y. Crowell Company, New York.

of the National Conference of Charities "to consider the influences resulting in destitution in each case as making up ten units, and indicate the relative force of each cause by a proportionate number of units." The method was rejected as too complicated, but has been used by Mr. A. M. Simons in a study of cases treated by the Chicago Bureau of Associated Charities.<sup>1</sup> The tabulated results are as follows:

	STOCK YARDS DISTRICT	ENGLEWOOD
Lack of employment . . . . .	456	499
Intemperance . . . . .	157	105
Sickness . . . . .	154	95
Incompetence . . . . .	61	36
Desertion of breadwinner . . . . .	51	22
Laziness . . . . .	34	160
Old age . . . . .	33	54
Death of breadwinner . . . . .	33	29
Pauper association . . . . .	17	0
Insanity . . . . .	4	0

In Professor Lindsay's report to the National Conference<sup>2</sup> the method employed by Warner is used. A condensed statement is here given:<sup>3</sup>

**A. Causes indicating misconduct:**

Drink, 5-23; immorality, none; shiftlessness and inefficiency, 4.93-14; crime and dishonesty, 0-1.5; roving disposition, 0-3.26.

**B. Causes indicating misfortune:**

**1. Lack of normal support.**

Imprisonment of breadwinner, 0-2; orphans and abandoned children, 0-1.5; neglect by relatives, 0-2.3; no male support, 3.6-7.22.

**2. Matters of employment.**

Lack of employment, 12-37.67; insufficient employment, 0-14.47; poorly paid employment, 0-10.5; unhealthy and dangerous employment, 0-6.

<sup>1</sup> *American Journal of Sociology*, Vol. III.

<sup>2</sup> *Report of the National Conference of Charities*, 1899, p. 369.

<sup>3</sup> The numbers in this statement are percentages of cases. The range from the lowest percentage in any city for one year to the highest is given. Thus the lowest percentage assigned to drink is five for the year 1894-95 in Baltimore, the highest is twenty-three per centum for the year 1889-90, and also for 1892-93 in Boston. The cities studied are New York, 1889-98; Boston, 1889-93; and Baltimore, 1889-95.

## 3. Matters of personal capacity.

Ignorance of English, 0-1; accident, 1.2-5; sickness or death in family, 13.75-26.50; physical defects, 1.28-7; insanity, .25-1; old age, 0-7.

## C. Not classified:

Large family, 0-4.5; nature of abode, 0-1; other or unknown, .35-10.

What can be said of the scientific value of these studies? The case-counting method, dealing as it does with actual cases, with the "facts," seems at first sight to offer the most direct line of approach to the problem. Its statistical appearance arouses the hope that the effect of various causes may be measured and the importance of causes disclosed by quantitative comparison. Upon the important causes ameliorative efforts could then be concentrated, and the practical value of this method of study be demonstrated. Closer examination, however, will show that suggestive as the study of concrete cases of destitution may be, nothing is gained by the application of statistical methods. In other words, the relative weight of causes of poverty cannot be established by counting cases.

We come to the fundamental difficulty of the case-counting method. It has employed data for only a small proportion of the world's destitution, and incomplete information at best in all cases. Yet, if all the facts open to observation and record were given, their interpretation would meet insuperable difficulties. How is one to pick out a "principal" cause from a tangle of interacting forces? Take this entirely possible instance suggested by A. M. Simons:<sup>1</sup>

The husband, a not very competent workman, and an occasional drinker, is thrown out of employment by the stopping of the factory where he has been working. A child falls sick, owing to defective drainage, and this unusual expense causes him to allow his trades-union dues to lapse just before a period of general financial depression. Discouraged and tired of "looking for work" and his resources exhausted, he applies for charity. Is the "cause of distress" lack of employment, incompetency, intemperance, sickness, bad sanitation, trades-unionism, or "general social conditions" beyond the control of the individual?

How far back of the immediate cause is it permissible to go? Warner holds that the method should deal only with immediate causes, and therefore objects to the inclusion in the list of causes of "pauper

<sup>1</sup> *American Journal of Sociology*, Vol. III.

association and heredity" and of "nature and location of abode." "Both of these," he states, "are by their nature predisposing causes rather than immediate or exciting causes; and it is confusing to mix the two." Dr. Ayers,<sup>1</sup> however, in discussing the new blank prepared by the committee of the National Conference, advises that:

In cases where it is doubtful which of several causes should be indicated, some within and some outside the family, the emphasis should be thrown upon the primary cause, as it is surely known and can be stated. A suggestion from the Baltimore Charity Organization Society may be safely followed: "Give the cause that is farthest back provided you really know it!"

Evidently there is no agreement as to the object of the inquiry.

In many instances the chain of causes appears to return upon itself, the effect becoming a cause and forming, in a sense, a "vicious circle." A man is destitute because of unemployment, unemployed because of physical weakness, weak because of nature of abode and insufficiency of nutritious food, confined to insanitary dwelling-places and poorly fed and depressed because of his destitution. What point in this circle should be selected for tabulation? Obviously, the latitude that must be given to individual judgment puts agreement out of question. The individual judgments, though issuing in a numerical statement with all the delusive aspect of exactness that "figures" give, are the outcome of a struggle in the investigator's mind between indeterminate factors. Prejudice or, in more courteous phrase, the "personal equation" decides what part of a circular causal movement will be designated or how far back of the immediate causes the inquiry will be pushed. Moreover, the investigator's judgment is not likely to be entirely undisturbed by strong feeling. In regard to the subject of intemperance, for instance, an American until recently found it difficult to think calmly. He abominated either the liquor traffic or the frenzied language of the temperance advocate. That the bias of one student will exactly offset that of another is by no means certain.<sup>2</sup> The nature and amount of popular discussion given to any factor

<sup>1</sup> *Charities Review*, December, 1898.

<sup>2</sup> Professor Warner refers to the tendency of bias to become corrected in grand totals, and then suggests that variation is, after all, rather slight. Thus "causes indicating misconduct vary only between 7.5 and 32.5." This *only* is almost ludicrous. If variations of 25 points are to be regarded as trivial, the use of numerical data can have little meaning.



largely determines the bulk it assumes in each investigator's mind. Intemperance as a cause of destitution cannot be disregarded. "Nature of abode," however, has been overlooked. The small percentage of cases attributed to it (2.2 and 1 at the highest in Warner's and Lindsay's tables, respectively, and nothing for most cities) will astonish any one acquainted with the life of tenement districts. The attention given to housing conditions in recent years and the impression made upon the public mind will possibly be reflected in future tabulations, and result in some approach to a correct percentage. Such tables are, however, at best but records of the more or less confused impressions and reactions of more or less prejudiced minds. They indicate the course of popular thought and feeling, of subjective rather than of objective conditions. They can never give a rightly proportioned picture of the facts. How widely they depart from the reality it is idle to inquire.

A statistical blank such as that formerly recommended by the National Conference is, by its very nature, misleading. Consisting of a list of causes, headings under which data are to be entered, its use can be defended only on the assumption that the list is exhaustive so far as causes that can be considered principal are concerned, or that the omitted causes are a negligible quantity. Such listing leads to the oversight of causes not listed. The caption "Causes not named or unknown" is an insufficient safeguard. Placed at the end of the list, it attracts too little notice. Attention is inevitably centred upon the more conspicuous headings. The difficulty of securing accurate and complete data and of interpreting them, however, makes it clear that even the attempt to compare only a few conspicuous causes can lead to no trustworthy conclusions.

The case-counting method, we may conclude, is, and always will be, a complete failure. Comparing causes, not by any possible accurate measure of their effects, but by counting cases and assuming that they are of equal value; taking into consideration only a small proportion of the total of cases without assurance that those taken are truly representative of the whole; based for the cases actually investigated on incomplete data and on the untenable assumption that a principal cause may be picked out from a tangled network of causes; limited artificially to a printed list of causes suggested by the dominant interests of the time in advance of any real investigation,—it throws light neither on what is fundamental nor on the relative importance

of the superficial phenomena and it gives no adequate study of any distinct class of the destitute or trustworthy comparison of any special groups of causes. It follows, as a matter of course, that it can yield no conclusion of sufficient generality to be of service in establishing principles of poor-relief. A few factors, indeed, in such a study acquire prominence,—intemperance, matters of employment, sickness. That these are in numerous cases among the immediate causes of distress may be granted. General observation will lead to that conclusion, and statistical proof is unnecessary. The only legitimate inference, however, is that of all the forces at work they are the conspicuous ones. It is not proved that they are the most important.

### 79. POVERTY AND ITS VICIOUS CIRCLES<sup>1</sup>

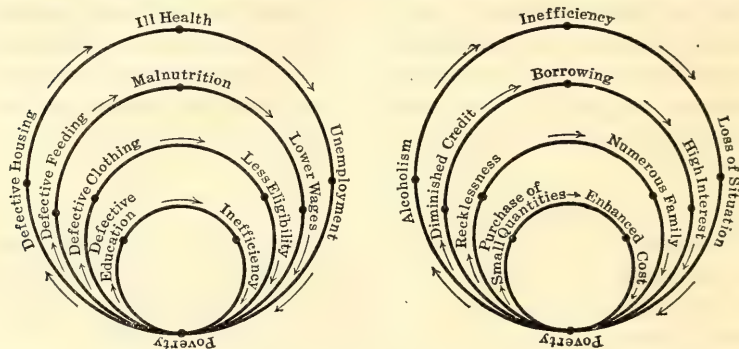
The word Poverty, as used in the following pages, may be defined as the condition of a person who lacks the necessities for subsistence and efficiency. Vicious Circle is the process by which a primary disorder provokes a reaction which aggravates such disorder.

In the ordinary course of economic law the reaction provoked by a social disorder tends to arrest such disorder. For example, idleness is checked by indigence, crime by social ostracism, alcoholism by dyspepsia, insanitation by ill-health. By this natural process the social organism maintains itself in health. Where a Vicious Circle is present, the ordinary sequence is modified. The reactions which should be beneficent are maleficent and intensify the disorder. Poverty, one of the most important of social evils, is to some extent subject to the usual economic law, since it has sequelæ which render it disagreeable and therefore to be avoided. Unfortunately, however, there are other potent factors which aggravate in lieu of arresting the primary disorder, and cause poverty to become self-perpetuating. As Solomon pointed out many centuries ago: "The destruction of the poor is their poverty."

Some sociologists have taught that poverty cures itself, and have advocated a laissez-faire policy. The following study shows that such a principle cannot be consistently adhered to, unless we do outrage to all feelings of our common humanity. Too often does the *vis medica-*

<sup>1</sup> By Jamieson B. Hurry, formerly Medical Officer at University College, Reading, England. Adapted from *Poverty and its Vicious Circles*, pp. xi, xii, 2-4, 9, 15, 18, 19, 28-31, 135-160. J. and A. Churchill, London, 1917.

*trix* become the *vis devastatrix* against which not only individuals, but whole classes of society, are powerless to contend. There is a close similarity between physical and social disease. In each case problems of pathology, diagnosis, prognosis, prophylaxis, and therapeutics present themselves for solution. In each case training, skill, and philosophic insight are required by those who seek to cure the disorder.



*Circles associated with defective housing.* Poverty breeds poverty through the insanitary and overcrowded homes in which the poor are often obliged to live. Physical, mental, and moral health suffers, with the result that earning power is diminished and poverty is aggravated. We may deal in turn with each of these results of defective housing, whether this latter is due to insufficient cubic space, to excessive surface density, to want of drainage, or to other insanitary conditions. The impaired physique frequently takes the form of chronic ill-health. Recuperation after exhausting labour depends on pure air for respiration and digestion, and on peaceful surroundings for refreshing sleep. Where these are absent, there is a more or less serious depreciation of muscular activity and a tendency to rapid exhaustion.

*Circles associated with malnutrition.* One of the commonest results of poverty is deficiency in the quantity and quality of food. Such deficiency is followed by malnutrition and debility which in their turn diminish earning power and thus lead back to poverty. Every successful farmer knows that it is profitable to feed his horses sufficiently well to keep them in good health, since otherwise much of their possible output in labour is lost. But the employer of human labour takes far less trouble to ensure that his employees have the food they

require in order to produce their maximum work. As impossible is it for the human machine, when short of food, to produce the maximum output as for the steam-engine when short of coal. Efficient production is economical production. Malnutrition is especially disastrous to children since it retards development, lowers mental calibre, and tends to handicap them during the rest of life.

*Circles associated with unemployment.* A large proportion of the poor suffer periodically from unemployment, and, speaking generally, the poorest suffer most. Their ignorance is greater, their outlook is more limited, their adaptability is less. When unemployed, they are less in touch with openings where work may be had, while their limited savings prevent their traveling far in search of it. All these difficulties tend to intensify poverty.

Recurrent unemployment and its associated hand-to-mouth existence weaken morale. The weary tramp in search of a job, the frequent disappointments, the anxiety about wife and children only too often loosen all family ties. In course of time all desire for regular occupation passes away; a casual life leads to such deterioration of character that the affected individual only cares for casual labour. Frequently unemployment drives a man to drink, and drunkenness keeps him in the ranks of the unemployed.

*Circles associated with anxiety.* Under the general term anxiety may be included various psychical conditions which are sometimes associated with poverty. These psychical conditions may take the form of worry, of melancholy, or even of despair, according to their severity. Each of them may induce insomnia and neurasthenia which lower efficiency and intensify poverty.

Up to a certain point anxiety may be a beneficial reaction and stimulate a man to exert himself to the utmost to keep his family in comfort and decency, or, short of that, out of the workhouse. But there is always a danger, especially with neurotic individuals, lest prolonged anxiety arouse injurious reactions. Some degree of worry indeed seems inevitable, since the poor are liable to many sources of irritation from which persons in comfortable circumstances are free. Especially are worries injurious when they create auto-suggestions and phobias which magnify the primary irritability. Thus there may be an ever-present nightmare of unemployment, of sickness, or other ill. Poverty sometimes leads a worried wage-earner to over-



tax his strength, forgetful that inadequate rest in the long run diminishes output and aggravates poverty. The increased productivity of shorter spells of work is one of the main arguments for the eight hour movement.

There are many other forms of injurious correlations between mind and body. A common illustration is seen in neurotic dyspepsia,<sup>1</sup> a condition which has been well described by C. W. Saleeby:

In nervous dyspepsia we see illustrated, in the fullest degree, that action and reaction between mind and body, which most perfectly demonstrates the meaning of the phrase, a Vicious Circle. In this case, which followed an absolutely typical course, a purely mental disturbance caused a physical disorder, and this produced a mental disturbance similar to the original one, but utterly different in causation. The problem now was to break the Circle by attacking the physical disorder; and the difficulty of doing so depended upon the fact that it was a Vicious Circle which had to be dealt with. For all the physical means—such as regulation of the diet, drugs, massage, and so forth—appropriate to the physical disorder, had to contest the ground, inch by inch, with the opposing influence of the worry which that disorder had engendered, and which in turn tendered to perpetuate it.<sup>2</sup>

In other cases of poverty the mental disorder takes the form of profound melancholia, associated with loss of physical and mental vigour as well as with malnutrition. Thus Müller writes: "The mental depression reacts on nutrition, sleep, and the other vital functions, and thus creates a distressing Vicious Circle, which aggravates the primary disorder."<sup>3</sup>

The gravest form of anxiety is that which provokes a condition approaching to despair. Especially is this result likely to follow when poverty has been accompanied by prolonged mental or physical strain, or when a precarious hand-to-mouth struggle has been followed by unemployment. Even a brave light-hearted man may under such circumstances give way to pessimism and plunge his family into abject misery.<sup>4</sup> All these forms of psychical disorder raise the incidence of disease and of accident, and so tend to intensify poverty. Worry is by no means an uncommon cause of death.

<sup>1</sup> Compare also *The Vicious Circles of Neurasthenia*, by J. B. Hurry, p. 29.

<sup>2</sup> *Worry, the Disease of the Age*, p. 139.

<sup>3</sup> *Handbuch der Neurasthenie*, p. 61.

<sup>4</sup> In many cases self-drugging has been resorted to, followed by rapid increase of poverty.

*The Breaking of the Vicious Circle*

Every Vicious Circle has one excellent virtue, viz. there are at least two points in its circumference at which interruption is possible. When the *locus minoris resistentiae* has been discovered, a breach must be effected and the gyration arrested.

The methods by which the Vicious Circles associated with poverty can be broken may be grouped under three headings: I. Legislation; II. Voluntary Organisations; III. Personal Effort.<sup>1</sup>

Each of these methods has its advantages. The legislature, through the control of taxation, can raise the necessary funds for coping with great national problems, and can exert compulsory powers. Its weakness lies in a want of adaptability to circumstances, in the risk of harsh bureaucratic methods, and in the difficulty of experimental investigations.

Voluntary Organisations have the advantage of varied counsels and of a more or less impartial and independent survey. In many cases they enjoy much prestige, which inspires confidence and enables them to exert a wide-spread influence over large sections of the community. Considerable elasticity can be combined with freedom in initiating fresh methods of betterment. Indeed many writers believe that such Organisations are better fitted than is the State to solve social problems and in time should make State interference unnecessary.

Personal effort enjoys an advantage over all other methods in being able to inquire into personal and environmental conditions and adjusting the remedy, both as regards its nature and strength, to the disorder. The weakness associated with personal effort arises from the insufficiency of trained workers with a wide outlook on the ultimate as well as the immediate effects of remedial schemes, and from the risk of over-lapping.

<sup>1</sup> This classification seems preferable to that adopted by E. Münsterberg, who divides measures of relief into (1) public; (2) religious; (3) private. Conrad, *Handwörterbuch der Staatswissenschaften*, Vol. II, p. 143.

Schönberg, in his excellent article on "Die gewerbliche Arbeiterfrage" says that social reform needs the co-operation of the workers, the well-to-do, the legislature, and the Church. His three main forces are: Selbsthilfe (self-help), Gesellschaftshilfe (organised help), and Staatshilfe (State help). Schönberg, *Volkswirtschaftslehre*, Vol. II, p. 648.

The ideal arrangement is doubtless found in a judicious co-operation of the various methods of relief. For example the Charity Organisation Society has long urged that the Poor Law should confine itself to institutional relief humanely and adequately bestowed, and that outdoor relief should be left to voluntary organisations.

*Legislation.* It is only in comparatively modern times that the legislature has attempted to deal with poverty. In classical and mediæval days the poor were relieved by religious bodies or by private charity.<sup>1</sup> This modern development may be attributed to a growth of sympathy with the less fortunate members of the community, as well as to the fact that the State as representing the entire community is alone competent to deal with so gigantic an evil as poverty is to-day. At all events every civilised State has recognised the necessity of resorting to law in order to break the various Vicious Circles which complicate so many social evils. England is generally regarded as having led the way in such legislative reform.

Social legislation was strongly reprobated by the older school of economists who believed that the policy of laissez-faire was the wisest in the long run, and argued that poverty in course of time would cure itself. And indeed there are modern individualists who hold that it is better for men to carve their own lives, to learn their own lessons by experience, even if they make blunders, than for the State to interfere. Such interference in their view is injurious, since it weakens the self-reliance and diminishes the independence of the individual.

But there are but few economists to-day, who apply this doctrine consistently to every social disorder. It is all very well to argue that the self-interest of parents and employers ought to have rendered the long series of our Factory Acts superfluous. Far-sighted manufacturers might surely have recognised that excessive hours of work in an unwholesome environment rendered labour in the long run both inefficient and costly. But it is notorious that they did not recognise where their true interests lay, and that interference was urgently demanded.

Even Fawcett, one of the staunchest upholders of a laissez-faire policy, admitted that compulsory education was justified by its enormous benefits, and by the fact that the ignorance of parents did not,

<sup>1</sup> Athens, however, is an exception, since its poor citizens were supported by the State.

as it should do, make them desire that their children should be well educated, but, on the contrary, so often made them content with ignorance in their children.<sup>1</sup> It may therefore be accepted that the policy of laissez-faire must under certain circumstances be abandoned, that there are circumstances in which, owing to ignorance, helplessness, immobility, or lost freedom of bargaining, there is no hope of breaking the Circle without extraneous aid. Arnold Toynbee puts this argument clearly:

We have not abandoned our old belief in liberty, justice, and self-help; but we say that, under certain conditions, people cannot help themselves, and that then they should be helped by the State representing directly the whole people. In giving this State help, we make three conditions: first, the matter must be one of primary social importance; next, it must be proved to be practicable; thirdly, the State interference must not diminish self-reliance.<sup>2</sup>

The problem therefore resolves itself into the question of how to interfere with economic laws without weakening, more than need be, the self-reliance of the people. The policy of temporary relief is so much easier, and involves so much less thought and trouble than does effectual cure, that our legislature is apt to yield to the temptation to choose the broad in lieu of the narrow way. S. and B. Webb thus describe this policy:

In some of the legislation that has been passed during the last two decades, and in a good many of the projects put forward by each political party in turn, we see the fatal attraction of the easy policy of "relief," in contrast with the arduous mental labour involved in mastering the technique of prevention. Great Britain, in fact, finds it difficult to break out of a Vicious Circle. Our governing class—Ministers, Members of Parliament, Judges, Civil Servants—do not seem yet to have realised that social reconstructions require as much specialised training and sustained study as the building of bridges and railways, the interpretation of the law, or technical improvements in machinery and mechanical processes. The result is that the amount of knowledge available, even of knowledge of facts, when a Minister is faced by a problem, is always ludicrously insufficient, whilst adequately trained expert students of the subject are seldom to be found. Meanwhile, the bulk of the electorate, the organised working-class, can hardly be expected to have time to think out for themselves the necessary changes in environment or to develop any new social technique; and in default of intellectual leadership they are apt to alternate between a some-

<sup>1</sup> *Pauperism: its Causes and Remedies*, pp. 124-132.

<sup>2</sup> *The Industrial Revolution of the 18th Century in England*, p. 219.



what cynical apathy and an impartial acceptance of the first easy-looking device for improving their condition that is presented to them. The first condition of effective social progress in this country is that we should get out of this Vicious Circle.<sup>1</sup>

Doubtless there will always be difference of opinion as to where the line should be drawn. The self-regulation of economic forces is of such enormous value that it must only be interfered with after the most careful consideration. Nevertheless there is every reason to think that such social legislation as has been referred to above will be largely extended in future years. Much remains to be done to improve the homes of the people. There is still a vast amount of overcrowding of individual houses, and far too many houses are allowed on a given area of land. More supervision is required to ensure that each house shall be well built, well drained, and well ventilated. Overcrowding in the towns will also be relieved by the development of small holdings and increased facilities of locomotion. The registration of titles to house property will greatly facilitate administrative action.

Further measures are called for to improve the health of the people, including a pure milk supply, especially for infants. A more systematic inspection of dairy farms and milk shops is required, and encouragement should be given to farmers anxious to free their herds from tuberculosis. Refrigerating vans for conveying milk at least during hot weather are desirable, and many antiquated forms of milk churns should be abolished.

The complex problem of temperance reform, when once satisfactorily solved, will give a powerful impetus to social progress.

In the field of education much leeway remains to be made up. Universal education as to the best way of supplying the elementary wants of humanity is urgently required. Especially should girls be taught household economy and mothercraft. This in itself will break many of the Circles associated with ignorance and inefficiency. Again, the war has emphasised, as perhaps nothing else could have done, the importance of a high standard of technical education.

A further extension of legislation on the lines of the National Insurance Act will be a boon to the labouring classes. Germany has led the way in such beneficent legislation which breaks many of the Circles associated with unemployment, accident, and disease.

<sup>1</sup>*The Prevention of Destitution*, p. 331.

*Voluntary organisation.* A great number of Societies and Organisations have been established whose *raison d'être* is the prevention and the breaking of Circles associated with poverty. Some of these deal with disease, some with unemployment, some with insanitation, some with drunkenness, some with crime, some with immorality, some with inefficiency, and so forth. Space does not allow of even a general summary of all that they accomplish in the direction of social reform. But a few examples may be singled out to illustrate their *modus operandi*.

Amongst the more important are the Trade Unions which have greatly benefited the working classes as a whole, both by developing their intelligence and by increasing their economic strength. Although the results have mainly accrued to their own members, these Unions have done much to emancipate the employed class as a whole from undue domination of capital, to diminish unemployment, to shorten hours of work, to establish a standard rate of wages by collective bargaining, and to raise the worker to something approaching equality with the employer. By means of their sick funds, their unemployment funds, their accident funds, their death funds, they have inculcated principles of self-help and self-respect, and to a large extent have broken the Circles of inefficiency, ignorance, and immobility.<sup>1</sup>

Another example may be mentioned—the Friendly Societies. These are mutual insurance associations by means of which the working classes protect themselves and each other against many of the troubles of life. By inculcating habits of thrift and self-help, these Societies, like Trade Unions, have done much to promote a high standard of life and conduct.

A third example may be found in the Co-operative Movement which has proved a valuable economic expedient for increasing the health and happiness of the poor man's home. Encouraged by an enthusiastic propaganda, multitudes of working men have been enabled to save money, to practise moral and prudential virtues, in brief to live with an ideal. Humble workers who had never possessed any reserve, came under the magic influence of a little capital which reacted on their moral and physical condition. Independence, once

<sup>1</sup> Sometimes, however, Trade Unions create a Vicious Circle, e.g. when they foment strife and diminish production in order to obtain higher wages, which can only be paid out of increased production.

acquired, led to further thrift, to increased comfort, and to a higher standard of life and self-respect. At Rochdale, the birth-place of the movement, the whole material, intellectual, and moral condition received a powerful impetus.

The three great Organisations just referred to have been in the main initiated and controlled by the working classes themselves. The prospects of even greater usefulness seem bright.

To another group of Voluntary Organisations belong Hospitals, Convalescent Homes, Orphanages, and a multitude of religious and social Institutions, whether national, civic, or parochial.

There is immense variety in the objects and methods of these Organisations, but in one way or another they seek to solve the complex problems arising out of poverty. A special tribute should be paid to those enlightened Societies which in this and other countries have pointed out the danger of indiscriminate charity and the importance of giving such relief as will render the recipient more self-reliant than before. "Give adequate relief" is another way of saying "break the Circle." Amongst them may be mentioned the Charity Organisation Societies in England and America, Le Bureau Central des Oeuvres de Bienfaisance in Paris, Der Deutsche Verein f. Armenpflege und Wohlthätigkeit.

*Individual effort.* The third, but by no means the least important, agency in dealing with poverty is to be found in the activity of the vast army of individual workers who bring the best powers of head and heart and hand to the solution of the complex problems presented to them.

There are many Circles from which the poor man can extricate himself, if he has courage, perseverance, and prudence. For example abstinence from tobacco and beer will in some cases so largely supplement the weekly income that more can be spent on rent, food, and clothing. Hence will result improved health and respectability, both tending to still higher wages, and diminished desire for self-indulgence. Prudence in the purchase of the necessities of life will permit the accumulation of savings which may be deposited in a savings bank for a rainy day. The remembrance of Malthus's doctrine that a man should only marry when able to maintain a family, or, at least, that he should limit the number of his children according to his resources would check the excessive fecundity that proves so common a source

of poverty. Increased economy will allow more home comfort, better education for the children, and greater happiness in life.

Unfortunately, however, poverty so frequently blinds a man to his highest interests and paralyses his efforts to escape from the snares in which he is caught, that some extraneous assistance is required to effect his deliverance. It is here that the judicious help of the social worker can render such priceless services.

Illustrations of a number of Circles, together with the factors into which they may be analysed, have already been given in the plates on page 582. The following Table gives concisely some additional ones :

- I. Poverty—Anxiety—Insomnia—Lowered Efficiency—Poverty.
- II. Poverty—Improvvidence—Want of Reserve—Poverty.
- III. Poverty—Indolence—Waste of Time—Poverty.
- IV. Poverty—Sickness—Unemployment—Poverty.
- V. Poverty—Sweated Labour—Low Wages—Poverty.
- VI. Poverty—Immobility—Loss of Opportunity—Poverty.
- VII. Poverty—Unequal Taxation—Poverty.
- VIII. Poverty—Unequal Justice—Poverty.
- IX. Poverty—Inability to Bargain—Lessened Choice—Poverty.
- X. Poverty—Employment of Women—Increased Competition—  
Lowered Wages—Poverty.
- XI. Poverty—Wastefulness—Poverty.
- XII. Poverty—Demoralisation—Poverty.

The methods required by the social worker are infinite in number and variety. Every judicious effort

to remove insanitation	}	amongst the poor,
to improve nutrition		
to promote education		
to check intemperance		
to relieve unemployment		
to increase efficiency		
to cure disease		
to prevent wastefulness		
to lessen immorality		
to arrest crime		
to encourage self-help		
to raise ideals		

will remove some pebbles from the *via dolorosa* along which so many of our unfortunate brethren have to journey.



## CHAPTER XXII

### PREVENTION OF POVERTY—ECONOMIC FACTORS

#### 80. INCOME IN THE UNITED STATES<sup>1</sup>

One reason why economics continues so largely a speculative science is that we still lack exact information touching upon the economic facts which most vitally concern us. No questions are more fundamental than those relating to the amount and distribution of income. What is the total income of the people of the United States? How has it changed during the last ten years? How is it shared among individuals and groups of individuals? What proportion of the total goes to the well-to-do classes and what proportion to wage earners? Are the rich really growing richer as the poor grow poorer? What would the average income be if there were an equal per capita distribution? On these questions we are favored with endless controversy for the simple reason that authoritative answers to them have been lacking.

The first report of the National Bureau of Economic Research<sup>2</sup> based on over a year's investigation by its able staff goes far to supply this lack. In the absence of a census of incomes, such as was taken by Australia in 1915, the bureau has been compelled to piece together all the available information from income tax returns, wage statistics, etc., to reach its comprehensive conclusions. These are frankly presented as estimates but estimates so carefully arrived at and tested that the bureau is confident that they vary from the truth by less than 10 per cent.

The total income of the people of the United States from 1909-1918 is found to have been in billions of dollars: 1909, 28.7; 1910, 31.6; 1911, 31.4; 1912, 33.2; 1913, 34.7; 1914, 33.5; 1915, 36.5;

<sup>1</sup>By Henry R. Seager, Ph. D., Professor of Political Economy in Columbia University. From the *Survey*, Vol. XLVII, No. 8, p. 270.

<sup>2</sup>*Income in the United States, its Amount and Distribution, 1909-1919.* By the staff of the National Bureau of Economic Research, Incorporated. Harcourt, Brace and Company, New York, 1921.

1916, 46.2; 1917, 55.1; 1918, 62.0. The increase in income from 1913 to 1918 is striking but most of the 80 per cent shown was due to the inflation of prices. If the figures be reduced to terms of the prices prevailing in 1913 the totals become: 1909, 29.9; 1910, 32.4; 1911, 31.8; 1912, 33.3; 1913, 34.6; 1914, 33.2; 1915, 35.6; 1916, 41.4; 1917, 41.6; 1918, 39.2. The shrinkage in the increase from 1913 to 1918 from the 80 per cent of the preceding table to the 13 per cent shown by this one is eloquent proof of the hollowness of war prosperity!

As regards the distribution of income in 1918, the year for which the estimate is considered most nearly accurate, about 88 per cent of the persons gainfully employed had incomes of less than \$2000 per annum and only about 12 per cent incomes exceeding that sum. In the same year about 60 per cent of the national income was divided among the 88 per cent who had incomes of less than \$2000 per annum and about 40 per cent of the national income among the 12 per cent who had incomes exceeding \$2000 per annum. The corresponding figures for the earlier years were even less favorable to the group with the smaller incomes, so the effect of the war was to diminish somewhat the inequality in the distribution of incomes between these two classes. So far as these figures throw light on the matter the poor have been growing relatively richer and the rich relatively poorer.

Coming now to the final question—the average per capita income—the results of the investigation were as follows:

#### AVERAGE PER CAPITA INCOME

YEAR	MONEY INCOME	MONEY INCOME TRANSLATED INTO TERMS OF 1913 PRICES
1909	\$317	\$331
1910	343	351
1911	335	339
1912	348	349
1913	356	356
1914	338	335
1915	364	355
1916	454	407
1917	534	404
1918	595	376

The average income for 1918, \$595, seems large, especially when it is remembered that no allowance is made in these figures for the important contribution of housewives to the well-being of their families, but it becomes less impressive when translated into its equivalent in terms of 1913 prices, \$376. The average American income also seems large when contrasted with the average income for any other country. Thus, in 1914, compared with the average for the United States of \$338, that for Australia was only \$263, that estimated for the United Kingdom, only \$243, and that for Germany, only \$146. But in making this comparison it must be remembered that the cost of living in the United States was substantially higher than in these other countries so the extent of the greater material well-being of Americans remains debatable.

The final conclusion that is suggested by these averages is that even an equal distribution of income, if such could be effected without serious impairment of the machinery of production on which all incomes depend (as of course it could not), would provide only a small margin for the normal family above the amount needed to maintain a decent standard of living. The moral of this is that in our continued efforts to bring about greater equality in the distribution of income we must be equally alert to the need of increasing production. For if we curtail production in doing away with some of the present inequalities through taxation or other means, instead of making the poor richer we may merely cause all to grow poorer together.

## 81. NEEDLESS WASTE AND ITS ELIMINATION<sup>1</sup>

### *Sources and Causes of Waste*

*Four aspects of waste in industry.* Waste in industry is attributable to

1. Low production caused by faulty management of materials, plant, equipment, and men.
2. Interrupted production, caused by idle men, idle materials, idle plants, idle equipment.

<sup>1</sup>By the Committee on Elimination of Waste in Industry of the Federated American Engineering Societies, Herbert Hoover, Chairman. Adapted from *Waste in Industry*, pp. 8-33. Copyright, 1921, by the American Engineering Council of the Federated American Engineering Societies. Valuable tables and supporting data will be found in the original which could not be included here.

3. Restricted production intentionally caused by owners, management, or labor.

4. Lost production caused by ill health, physical defects, and industrial accidents.

*Relative responsibilities.* Management<sup>1</sup> has the greatest opportunity and hence responsibility<sup>2</sup> for eliminating waste in industry. The opportunity and responsibility of labor is no less real though smaller in degree. The opportunity and responsibility chargeable to outside contacts can not be so clearly differentiated or evaluated.

Over 50 per cent of the responsibility for the wastes in the six industries studied can be placed at the door of management and less than 25 per cent at the door of labor, while the amount chargeable to outside contacts is least of all. It must be recognized that if management is to meet this responsibility fully it must have the co-operation of labor. In every industry studied there are outstanding examples of good management but the bulk of the industry does not approximate this standard. In the clothing industry, for instance, one plant was rated by the engineers 57 points higher than the worst one studied and 42 points better than the average.

### *Low Production*

*Faulty material control.* In certain industries the waste of materials is a serious drain on production—a fact which is revealed by a comparative study of plants in the same field. The methods of control which are common in the shoe industry account for the greatest loss in shoe production, with the possible exception of seasonal demand and production. Firms leave it to the cutters to economize in leather. Where standards are in use, waste frequently occurs through careless-

<sup>1</sup>The term "management" as used in this part of the report refers to the agency (owners or managers) which exercises the management function in industry. This function is thus defined in a report approved by the management division of the American Society of Mechanical Engineers:

Management is the art and science of preparing, organizing, and directing human effort applied to control the forces and to utilize the materials of nature for the benefit of man.

<sup>2</sup>The "responsibility" of a given agency as here used does not mean moral responsibility as ordinarily understood, but only that responsibility which arises from the undeniable fact that a given cause of waste can be removed only by a particular agency. "We measure responsibility not by the thing done but by the opportunities which people have had of knowing better or worse."



ness and lack of training of cutters. The loss from idleness in shoe-making occasioned by waiting for work and material amounts to some 35 per cent of the time. The average contractor has no calendar of operations except the dates of starting and finishing a job. He largely regulates deliveries of materials by visits to the job, or through statements received from the job superintendent. Haphazard methods of planning result in delays for want of material, or in burdening the job by an over-supply of material. The same practice results in frequent layoffs, causing dissatisfaction, the loss of good mechanics, and a high labor turnover.

Still another waste from inadequate material control comes from the speculative purchasing of raw materials. In the clothing industry gambling in cloth is common. Fortunes are made or lost in this practice, with a consequent train of evils which affects most of the processes of production, and raises the cost of the product.

*Faulty design control.* The defective control of design results in a major waste, since it prevents standardization of product. In the building trades, for example, while the standardization of dwellings and other types of buildings is not generally practicable, yet certain details are entirely capable of standardization. Standardization of the thickness of certain walls might mean a saving of some \$600 in the cost of the average house. Standardized mill work, such as window frames, doors, and other similar items would reduce the cost.

There are approximately six thousand brands of paper; 50 per cent of which are more or less inactive. The duplication of brands serves no useful purpose and ties up money in unnecessary stock. As an example of the disregard of standard size, the Federal Reserve Bank check will not cut without waste from any of the regular paper sizes. A draft questionnaire issued during the war was of such non-standard size as to require special filing cabinets. The Technical Publishers' Association on measuring 927 catalogues found 147 different sizes. A trim of one-quarter inch on a  $6 \times 9$  page is equal to 7 per cent of the total cost of the paper. Among current magazines there are 18 variations in width and 76 in length of page or column. Among trade paper publications there are 33 variations in width and 64 in length. Among newspapers there are 16 in width and 55 in length. These variations cost the public not less than \$100,000,000 each year. The standardization of newspaper columns to one size would make

possible an annual saving of \$3,000,000 to \$5,000,000 on composition and plates alone.

The waste of time and money through duplication of estimates and of designs in the building trades runs into the millions every year. Frequently the architect makes a general design and for lack of knowledge of how to keep down its cost, asks all the bidders to design the structural details in order to get their quantities. Thus not only must the bidder include the cost of the design in his proposal, but he must allow, in addition, an overhead to cover the cost of various similar designs he made for unsuccessful bids. This duplication of design is waste for which owners must eventually pay.

*Faulty production control.* The lack of adequate methods of production control is evident in every industry studied. It is one of the outstanding weaknesses. Examples of avoidable waste such as the following are fairly common:

A shoe factory having a capacity of 2400 pairs of shoes a day could turn out for a considerable period only 1900 pairs because of shortage of needed racks. Another factory had 50,000 pairs of shoes tied up in the fitting room instead of the normal 15,000 because of congestion of operations. In another case a factory producing 700 pairs of shoes a day had 36,000 pairs in its fitting room, or ten times the normal supply. An entire factory was held up for several days waiting for leather heels.

From shop records it is found that the average loss in clothing factories during running time, not including shut downs, is between 30 and 35 per cent. If we call 80 per cent running time the maximum readily attainable, this means a possible increase of nearly 20 per cent in productive capacity, and a similar increase in plant capacity. It is found that at least ten hours per week per man is thrown away on energy-wasting and time-wasting work resulting from lack of shop methods, while an additional two or three hours per man per week are wasted in unnecessary work. Fixing the value of annual output in the men's ready-made clothing industry at \$600,000,000 it should be relatively easy to save three-quarters of a million dollars a day, an increase of 40 per cent in effectiveness.

*Lack of cost control.* The majority of the industrial plants studied lack a knowledge of costs and have no cost control. Therefore there is no adequate method of judging fairly and accurately when improve-

ments are needed and when waste is occurring. Not having the facts prevents prompt correction of defects. The above conditions are disclosed, for example, in the report on the metal trades. A survey of the printing plants in New York City made by the United Typothetæ showed that:

56 plants use standard cost system.

187 plants with no cost system, but with a knowledge of all general costs.

741 plants with no cost system and incomplete knowledge of all general costs.

554 plants with no cost system and incomplete knowledge of general costs.

The first two groups made money, the last two lost money in 1919.

*Lack of research.* While certain industries are ahead of the rest in plant research, the need for more intensive research activity is apparent in every industry. One industry which is backward in this respect is clothing. In the majority of men's clothing plants nothing approximating research is practiced to improve materials, processes, equipment, or product. The assertion probably will not be challenged that there is not a single individual throughout the entire industry who is solely engaged in research and is thus without operating duties. In the shoe industry there is lack of information as to market demands in this country and abroad. In all the leather industries there is need for scientific research to aid in predicting the kinds and quantities of leather required.

*Faulty labor control.* With perhaps two or three exceptions, shoe shops have no departments maintaining modern personnel relations with the employees. Thus the worker has no unbiased means of approach to his employer, and the employer lacks the means for treating with his own employees. Among the plants studied, only a few have effective employment methods. Fewer keep a record and make an analysis of the reason why men quit. Men are usually discharged or quit work without any executive knowing the reason why. No steps are taken to correct the conditions that bring about so many expensive separations from the working force.

A high labor turnover is a rough index of one of the common wastes resulting from inadequate labor management. No facts are available to show the extent of labor turnover as an unavoidable element in industrial waste. The accessible data are not comparable, for no common method of computation and analysis has been followed.

However, this is an important factor of labor waste because of its magnitude and because of the expense involved in training new workers to take the place of those who leave. In the shoe industry the cost of training an inexperienced man for cutting upper leather in a well managed shop is \$576; for a semi-experienced man, \$450; and to install an experienced man in a different shop costs \$50. For the average shop these figures are unquestionably low.

The average labor turnover for the year 1920 in the metal trades plants covered (wherever records were kept, which was the case in less than half of the plants), was 160 per cent—figured in most cases as the ratio between the number of "separations" and the average number of employees on the payroll. The highest turnover was 366 per cent.

The building trades have given little consideration to the subject of labor turnover. In construction work it is particularly difficult to estimate the extent, because the actual percentage of turnover constantly varies as the building progresses and the number of men is increased and later decreased. Men quit for such reasons as the type of work they are to perform, the risk involved in the particular work, and unfair treatment by foremen. They are discharged for lack of work, incompetence, laziness, causing trouble, or sometimes because there are better men available. The labor turnover and service records of typical contractors show large losses. Employment managers are rarely employed even upon the largest jobs, and "hiring and firing" is at the will of the foreman or superintendent.

Another fault in labor control is improper or inadequate rate setting. In negotiations and controversies between employer and operator in the shoe industry, what stands out is the lack of knowledge of facts which can be used as a basis for setting rates. In a shoe factory, for example, with the adoption of a new style new rates have to be set. The operatives through their agent make a guess at the time demanded and therefore the proper rate to set. The manufacturer makes a similar guess. His estimate is usually lower than that of the operatives. A compromise is made, based not on facts but on the argumentative ability of the two parties. If the rate is set too high, it means unequal payments to the workers or else cutting rates later on. This policy is responsible for much of the friction in the shoe industry.

*Ineffective workmanship.* Still another loss resulting in low production arises from inefficient workmanship; for much of this man-



agement is responsible through failure to provide opportunities for education or special training. Management, however, cannot do more than provide these facilities, and experience has shown that it is difficult to interest workmen in training courses which are designed to increase effectiveness. Further, much ineffective workmanship arises from lack of interest in work or lack of pride in good workmanship. The field reports give no evaluation of spoilage, which is one of the measures of this form of waste.

*Faulty sales policies.* The cancellation of orders is a condition peculiar to certain industries. It is especially acute in the clothing industry. Purchasers buying on long-time contracts return unsold goods at the end of the season, and claim and receive credit. In normal seasons cancellations have ranged from 3 per cent to 14 per cent, and returns from 5 per cent to 11 per cent in the average shop. In abnormal years, like 1920, cancellations have reached 33 per cent and returns 18 per cent.

### *Interrupted Production*

*Idle men.* 1. *Minimum unemployment.* The amount of idleness or unemployment in industry can only be evaluated through rough estimates. There is no national machinery for collecting the facts. But in the best years, even the phenomenal years of 1917 and 1918 at the climax of war-time industrial activities, when plants were working to capacity and when unemployment reached its lowest point in twenty years, there was a margin of unemployment amounting to more than a million men. This margin is fairly permanent; seemingly one or more wage earners out of every forty are always out of work. This unemployment means for the worker a loss in wages, for industry increased overhead due to idle equipment and idle materials, and for the public a lessened purchasing power, with all its attendant evils.

2. *Unemployment caused by industrial depressions.* During periods of industrial and business depressions, unemployment reaches its greatest amount. Such depressions appear more or less regularly at seven- or ten-year periods and each brings its increase in unemployment and wastage of the productive capacity of industry. In January, 1921, a nation-wide survey of employment made by the United States Employment Service of the Department of Labor showed that there

were 6,070,648 workers then employed in industry as compared with 9,402,000 in January of 1920, a decrease of 3,331,352 or approximately 35.5 per cent. This survey covered thirty-five states and one hundred and eighty-two industrial cities and centers and may be considered as fairly reflecting conditions at that time.

3. *Intermittent unemployment.* In addition to minimum and climacteric unemployment, many essential industries show a high unemployment or idleness once a year or oftener. Practically all industries are in a sense seasonal. To present a few examples: The clothing worker is idle about 31 per cent of the year; the average shoemaker spends only 65 per cent of his time at work; the building trade workman is employed only about one hundred and ninety days in the year or approximately 63 per cent of his time; the textile industry seemingly has regular intervals of slack time; during the past thirty years bituminous coal miners were idle an average of ninety-three possible working days per year. During the exceptional year of 1919, in the paper box industry 4311 employees in 77 establishments averaged 90 per cent of full time; in the women's clothing industry 6772 women workers employed in 157 establishments averaged 91 per cent; in the confectionery industry 12,152 workers in 101 establishments averaged 87 per cent; and in the overall industry 6546 workers in 129 establishments averaged 87 per cent of full time. In the brick, chemical, and glass industries the percentage of full time worked was 85, 84, and 87, respectively. In most years the percentage of lost days is much larger. Not only does intermittent unemployment reduce the productive capacity of the industry in which it exists, but it brings other wastes. One consequence is a concrete but fallacious industrial philosophy, the "make work" or "lump of work" theory. This is the belief that there is only so much work to be done and that the sensible course of action is to retard production to make employment last throughout the year, or to uphold prices.

4. *Unemployment due to labor disturbances.* Another form of unemployment comes from open conflict between management and labor. Here it should be said that in the past, at least, the amount of waste from the general run of strikes and lockouts through loss of wages and curtailment of production has been less than is popularly supposed. That these disturbances do produce unemployment is true, but in the industries studied they do not of themselves appear to

constitute a major source of reduced production. The ramifications of such strikes with their attendant and indirect losses the Committee has been unable to trace.

Such labor disturbances are either strikes or lockouts. As it is difficult to distinguish between them and the industrial effects are practically the same, it has seemed best in this summary to deal only with strikes. More than one-half of all the strikes that occurred between 1881 and 1905<sup>1</sup> and more than one-half of the employees thrown out of work were in highly irregular or distinctly seasonal occupations. Since most strikes occur in seasonal employments, it can be deduced that output is not necessarily penalized, for it is often possible to make up the losses incurred by strikes through increased production at other times. More coal was mined in 1910 than in 1911, although the former year witnessed many protracted strikes involving large numbers of employees. The year 1912, with 47 per cent of the entire labor force out on strike and with an average loss per man of forty days, showed an increased output of coal per man per day and per year, and six days more employment than in 1911, which was relatively strikeless. The total production was also more. Low production in 1914 and 1915 was due to general business depression caused by the World War rather than to strikes.

In New York State in 1916 two days were lost per capita per year by those classed as gainfully employed, because of strikes. This was a loss only one-fifth as serious as average time lost through illness. In the same state in 1918 about 32 per cent of the time lost from strikes and lockouts was in the building and clothing industries. In addition to the direct loss of time, however, there is a loss incurred through retarded production previous to and immediately following strikes. Wages and hours have always been the chief cause of strikes. There has been a marked falling off in the relative number of strikes for this cause in recent years as compared with 1898-1905. Jurisdictional disputes, that is, strikes by the members of one trade against the performance of work which they regard as belonging to their craft by members of some other craft or trade, are relatively unimportant. The Bureau of Labor Statistics reports there were 19 such strikes in 1916, 21 in 1917, 16 in 1918, and 15 in 1919. However, there are

<sup>1</sup>There are complete statistics for these years. Since 1906 the Department of Labor has had no authority "to require reports relative to strikes from anyone."

disputes constantly arising which, while they do not lead to formal strikes, work demoralization and are a fertile source of inefficient use of labor. In the building trades, jurisdictional quarrels represent about one-quarter of the total number of strikes.

*Idle material.* The waste of idle material through deterioration, obsolescence, and carrying charges is large, particularly where there are great inventories of both raw material and finished goods. Unbalanced production is another notable cause of the idle materials and consequent waste.

*Idle plants and equipment.* Unsound production policies result in wasteful over-equipment. Clothing factories are built 45 per cent larger than is necessary; printing establishments are from 50 per cent to 150 per cent over-equipped; the shoe industry has a capacity of 1,750,000 pairs of shoes a day, and produces little more than half that number; throughout the metal trades, standardization of products would permit of large reductions in plant and equipment. Standardization of machine sizes would make possible the use of one machine for a greater variety of different jobs. The printing industry illustrates this point also. A common sight in any large printing establishment is expensive machines covered up and out of use, or inefficiently used for purposes other than that for which they were built. A printer secures a contract and buys a machine to do the work economically. When the work comes up for contract next time, if some other printer secures it, it invariably means another special machine. One concern paid \$17,000 for a special press for printing a trade stamp. On losing this job, the press was scrapped, and later sold for \$2000. The contract in the meantime had been awarded to three other printers in succession, and each in turn had purchased a new press which he had to scrap or use disadvantageously at the expiration of his contract. Similar practices are common in other industries.

### *Restricted Production*

*Production restricted by owners and management.* Some of the evils of restricted production are chargeable to owners and management. In the building trades, contractors, builders, and supply dealers have restricted production by maintaining high prices, collusion in bidding, and unfair practices. At times there has been collusion be-



tween employers and labor, tending to raise prices unduly. The waste from these causes cannot be measured in this study.

*By labor.* Restrictions of individual output for which workers are responsible are susceptible of measurement. They are of two kinds. On the one hand, when workers are scarce the less conscientious workers become independent and slacken speed, whereas when workers are plentiful, they work with greater diligence and care for fear of unemployment. On the other hand, the dread of unemployment is so pronounced that employees engaged in seasonal enterprises frequently restrict production in order to make employment last longer; some workers, moreover, through consideration for their fellow employees limit production to provide work for them, a practice which ultimately results in an economic loss.

Important restrictions of output by employees can only result from collective action. In the building trades, for instance, some painters' unions do not permit of the use of a brush wider than  $4\frac{1}{2}$ " for oil paint, although for certain classes of work a wider brush is more economical. Plumbers' and steamfitters' unions prohibit the use of bicycles and vehicles of all sorts during working hours. Members of those unions in some sections of the country demand that all pipe up to 2" shall be cut and threaded on the job.

The restriction of the number of apprentices is a common rule. The engineer in the building trade notes that restriction of apprentices in many cases seems extreme and unfair.

Unions are charged with restricting the use of machinery. Painters' unions refuse to allow their men to work on a job where a spraying machine is being used, making claim that the use of the machine is injurious to the health of the workman. Some labor organizations of minor importance, such as windowglass and stonecutters' unions, may also be mentioned as opposed to the introduction of machinery.

All such restrictions, so far as they prohibit the use of the best and most efficient machines, constitute limitations of output. The actions of most unions, however, are confined to the restriction of the use of machinery rather than its prohibition.

The rule requiring that members of one craft union shall not encroach upon the work of another results in large waste and little benefits. Unions frequently require three or four skilled employees to perform various operations on a plain job which a single worker could

satisfactorily do by himself. Union carpenters are forbidden to lay bricks, union plumbers are forbidden to do carpentering work, and the like.

The following instances further illustrate restriction of output through divisions of labor: Carpenters' helpers are prohibited from using carpenter tools, requiring carpenters to do such work as stripping forms from concrete. Experience shows that helpers can do this more economically and as well. Brick masons insist on washing down and pointing brick work when laborers could do it more economically. Structural steel workers under certain rules must bring the steel from the unloading point to the building site, thus doing laborers' work at high cost. Structural steel men place reinforcing steel for concrete, whereas experience has proved conclusively that properly trained laborers can do it to as good advantage, and at greatly lowered cost. Hoisting engineers claim the right to run all types of engines, including small gas-driven pumps which require no skill. 'On one job a contractor had to hire a union engineer at \$8 per day simply to start a pump in the morning, oil it occasionally, and stop it at night.

### *Lost Production*

*From ill health.* A report on national vitality prepared in 1909 for the National Conservation Commission, appointed by President Roosevelt, estimated that there were then about three million persons seriously ill at all times in the United States. This meant an average annual loss per person of thirteen days owing to illness. It was estimated that 42 per cent of this illness was preventable, and that such prevention would extend the average life by over fifteen years. Since that report was issued, an apparent reduction in illness has been accomplished; so that to-day an estimate of between eight and nine days working time lost through illness is probably near the fact.

In discussing public health conditions there is no clear distinction between the standing of the 42,000,000 persons classed as gainfully employed in the United States and those specifically engaged in industry. The 42,000,000 men and women gainfully employed probably lose on an average more than eight days each annually from illness disabilities, including non-industrial accidents—a total of three hundred and fifty million days. Of the 500,000 workers who die each

year, it is probable that the death of at least one-half is postponable, by proper medical supervision, periodic medical examination, health education, and community hygiene.

Assuming that the average life has, aside from all spiritual and human values, an economic value to industry of not less than \$5000, and assuming that the special diet, care, and medical attention required by a man chronically ill costs \$3 per day, it has been estimated that the economic loss from preventable disease and death is \$1,800,000,000 among those classed as gainfully employed—or over \$700,000,000 among industrial workers in the more limited meaning of the term. The preceding figures are derived from studies of individual groups, from insurance experience, from census records, from draft records, and there is experiential basis for the statement that this loss could be materially reduced and leave an economic balance in the working population alone over and above the cost of prevention of at least \$1,000,000,000 a year.

Tuberculosis is the most important disease among industrial workers, two or three deaths per 1000 per annum occurring at the working ages. It is estimated that 3 per cent of the wage earners, or about 1,250,000 lives are affected. The economic loss from tuberculosis death rate as affecting the working population is \$500,000,000 annually. Pneumonia, influenza, and typhoid fever are the most important communicable diseases among adults. Influenza and pneumonia, in non-epidemic years, take about 35,000 lives in the working ages, and account for at least 350,000 cases of illness. Typhoid fills close to 150,000 sick beds annually and takes 15,000 lives, mostly in the working ages.

In a large industrial area hookworm infection was present among at least 5 per cent of the laboring population. Malaria is so seldom a direct cause of death that it is difficult to estimate its extent and influence. It is responsible for much sub-standard health, and probably affects 1,500,000 people annually, covering twenty-seven million days absence. It may be roughly estimated that 1,500,000 workers are infected with venereal disease. Judging by the draft figures, 5.6 per cent would be an outside estimate for ages twenty-one to thirty-one in the general mixed population, white and colored, for all venereal infections. It has been estimated that about 60 per cent of the infection occurs in this age period. Another study, it should be said, found less than 1 per cent of syphilis in industry and about 3 per

cent in mixed population. The Mayo Clinic found 4.6 per cent of syphilis in mixed classes and 10 per cent among railway men. There are more than six million workers with organic diseases resulting mostly from infection.

*Defective vision and defective teeth.* Special attention has been given in recent years to the question of defective vision and to that of defective teeth. It is estimated that twenty-five million workers have defective vision requiring correction. It is the experience of a number of plant executives that the correction of sub-standard vision brings increased quality and quantity of production, sufficient to pay for the cost. A very large proportion of workers have defective teeth and mouth infection and other serious physical defects, which reduces their effectiveness. Sub-standard conditions of health and physical deficiencies should be studied as a cause of fatigue in industry.

*From industrial accidents.* In 1919 there occurred in industry about 23,000 fatal accidents, about 575,000 non-fatal accidents causing four weeks or more of disability and 3,000,000 accidents causing at least one day's disability. The figures for 1918 were about 13 per cent higher. The time lost is estimated to be two hundred and ninety-six million days. Allowing for an average wage of \$4 per day during the time actually lost, adding an estimate for impaired earning power because of disability or death, but subtracting the subsistence of those killed, this gives an economic loss to the country of about \$853,000,000 for the year 1919.

This is not the whole loss chargeable to accidents. In one state (Wisconsin) the costs to employers for medical and surgical aid and hospitals' bills, and the overhead expenses of insurance, equaled 86 per cent of the actual compensation paid to workmen. The compensation paid the workmen was about 22 per cent of the total actual and prospective wage loss. Records from other states indicate that this is probably typical. On this basis the total direct cost of industrial accidents in the United States in 1919, including medical aid and insurance overhead, was not less than \$1,014,000,000. Of this \$349,000,000 was borne by employers and \$665,000,000 by employees and their dependents.

These approximate figures are low because they do not include medical expenses incurred by workmen and not paid by the employer or insurance company; overhead cost or personal accident insurance



carried by workmen; cost of training new men to take the place of those injured; employment and welfare department expense in keeping track of injured workmen and their families. The addition of these items would bring the total well over a billion dollars per year.

In this calculation no account has been taken of the indirect loss of production due to the stoppage or slowing up of work when an accident occurs. This affects not only the operation at which the man is injured, but associated operations as well. It applies also to "near-accidents" in which no personal injury occurs. Experience indicates, and authorities agree, that 75 per cent of these losses could be avoided, with a saving in direct, clearly ascertained losses alone of a quarter of a billion dollars per year to employers, and half a billion to employees.

Approximately \$30,000,000 is paid to insurance companies each year by builders alone for compensation and liability insurance. This figure by no means represents the total loss. While state laws vary, in general an injured workman must be disabled some seven days to two weeks before receiving an award, and then receives as compensation only a part of his average daily earnings. The loss to the contractor is less tangible, but where a man is out, a new one must be broken into a job with loss of time and frequently loss of material. In case of serious accident, also, there is stoppage of work and extensive loss of time of the entire force. In the opinion of one of the best authorities in the country the actual cost of insurance represents not more than 25 per cent of the total economic loss, which, if correct, would bring the total cost due to accidents in the building industry to \$120,000,000 per year.

An official of a large insurance company believes that by proper safety measures, the waste due to accident in the building industry can be reduced 75 to 80 per cent in two to five years of earnest effort, and that construction labor cost can be cut 3 per cent by these measures. Another official estimates, from actual accomplishments in safety measures, that a total of more than twelve million days a year could be saved the industry by the application of safety methods. In certain industries, on the other hand, such as boot and shoe manufacturing, accidents are insignificant.

## RECOMMENDATIONS FOR THE ELIMINATION OF WASTE IN INDUSTRY

*Opportunities and responsibilities.* In preparing this part of the summary, the Committee has endeavored to interpret responsibility in terms of what might be done to eliminate waste in industry. The policies and methods recommended are such as are already in successful use in the industries and plants investigated. The opportunities outlined show how support may be given to those efforts and what are the agencies especially responsible for elimination of waste in its broader aspects. This part of the report has been developed under seven major groupings of responsibility and opportunity as follows: responsibility of management, responsibility of labor, responsibility of owners, responsibility of the public, opportunity of trade associations, opportunity for governmental assistance, and duty of engineers.

### I. *Responsibility of Management*

*Improvement of organization and executive control.* Planning and control should be adopted as fundamentals of good management. For the most part they have not as yet penetrated the mass of American industry. Managerial control, when properly planned, extends its influence into every activity of an industrial organization and plant, reaching materials, design, equipment, personnel, production, costs, and sales policies and coordinating these factors to a common objective. While this statement applies more particularly to large plants, still the smaller units can utilize the same principles and thus secure the advantage of modern methods.

*Production control.* Conscious production control tends to reduce or eliminate waste by shortening the total time of production. It ensures the delivery of material where needed, whether it be material in process or a finished product ready for shipment. Material schedules should be installed and used. These are a means to reduce idleness of material, of the workers who are going to operate upon it, and of the machines and tools forming the equipment for the processes which it is to enter. Work in process should be planned in advance by methods which will ensure its timely delivery to the machine or operation where it is needed, so that there will be no idleness between jobs.

*Balancing productive capacity and demand.* Productive capacity should be conservatively based upon a careful study of normal demand. The sound relation between capacity and demand is shown only as a wise policy is adopted in regard to planning, routing, and scheduling work and as improved shop methods are put into effect. There is plenty of testimony to the possibility of increasing production from a given amount of equipment through improved management.

*Development of purchasing schedules.* There should be the same careful coordination of purchasing function and control of material purchased and not yet received as is given to material already in the plant. Where this is done the interruption of work due to lack of material, or to imperfect material, is largely done away with.

*Elimination of cancellations and curtailment of returns.* The practice of cancellation of orders between manufacturer and mill and between manufacturer and customer should be eliminated and there should be a curtailment of the privilege of returning goods ordered and received. Such cancellations and return practices are vicious and directly hinder stabilization.

*Correlation of production schedules with sales policies.* Production schedules should be based on a carefully formulated sales policy determined from an intensive study of markets, thus stabilizing production. By this method, which differs radically from the usual haphazard practice, the pernicious effect of seasonal manufacturing can be partially overcome. In a few plants in the boot and shoe industry this beneficial result has been brought about.

*Inspection.* Adequate inspection should be maintained. In many factories, losses of labor and material in spoiled and defective work are unwarrantedly high. The aggregate annual wastage of human effort and goods from this cause is very great. The indirect losses, which are harder to detect and measure, are often greater than the direct losses.

*Maintenance of plant and equipment.* Plant and equipment must be maintained continually in working condition. The methods and means for anticipating possible breakdowns and the like have been developed and are well known. Upkeep of plant is conducive to maximum production as it assures that equipment and machinery will be continually in a condition to operate.

*Uniform cost accounting.* Generally accepted systems for finding costs should be established in each American industry. In controlling

production and in judging fairly and accurately when and where progress and improvement are being made, the lack of a good cost control system is necessarily a source of much waste.

*Methods of wage payment.* Methods of wage payment should be adopted, equitable and just in their basis, ensuring a proper relationship between effort put forth and results achieved by all who participate in the enterprise. Two leading facts should be grasped: special wage methods are almost wholly futile in the absence of standardization and system in the work; production standards and proper control of work will, without any special wage method, accomplish a large part of the desired result. A danger lies in assuming that clever devices can take the place of good management. The most important function of a wage payment method from the production standpoint is to oblige management to do its duty.

*Standardization.* Products should be standardized consistent with progressive development of manufacturing. Materials should be standardized to the fewest practicable kinds, sizes, and grades. At least the details of equipment, including machines and tools, should be standardized so as to permit of the widest interchangeability and maximum usefulness consistent with improvements in design and invention. Performance standards should be developed as a valuable aid to planning and production control. Under the week-work system such standards are the basis of a just measurement of the individual worker's performance and of the adjustment of his wage rate to his capacity. Under the piece-rate system they are the basis of just rates. Without standardization of appliances, conditions, work content, and method, no valid performance standard can be maintained. By constantly comparing actual performance with the standards and promptly investigating the causes of departure from standard, the manufacturer can quickly detect adverse conditions as they creep in, and can rectify them. Performance standards, in fact, will enable him to plan the size of his plant and operating force for a given volume of business for continuous operation.

*Management and workers.* Management has a definite responsibility in selecting, up-grading, and maintaining personnel. Experience indicates that the best results can be obtained when employment and personnel direction develops a sense of mutual interest in production on the part of management and workers. To accomplish this, manage-



ment should stimulate the interest of workers, individually and collectively, in creation, in craftsmanship, and in the contribution of their experience and knowledge to the productive processes. "Industrial relations" to be effective should be closely allied to production and concern themselves with educating the workman in the science of process, recording his accomplishment, and enabling him to become conscious of the relationship of his work to the whole.

During the past few years, there has been a widespread advance and extension of employment and personnel methods in industry and many of the accruing advantages are now generally known. Among these is a means whereby the worker has a direct avenue of approach to his employer, and the employer has a means for communicating organization policies to the employees. Such industrial education and training as has been conducted by certain leading manufacturers has obtained beneficial results, and it is believed that further developments along these lines are desirable.

*Prevention of accidents.* Management has a definite responsibility to prevent industrial accidents. Systematic preventative measures can and should be inaugurated. With regard to methods there is already an abundance of information.

*Research.* Industrial research should be consistently carried on both in the individual plant and by associations. The need for knowledge obtained by such research is manifest in every industry studied. Although comparatively new in this country, the success of research laboratories conducted by a few large industrial firms and trade associations is well known.

## II. *Responsibility of Labor*

*For increasing production.* In discharging its responsibility for eliminating waste in industry, labor should cooperate to increase production. The need for facts instead of opinions stands out everywhere in the assay of waste from intentional restrictions of output. All concerned need to remember that science is an ally and not an enemy, and that no policy can be soundly based which ignores economic principles. Ignorance of these principles lies at the root of most of labor's restriction of output. The engineers who made the field assays unite in pointing out that this attitude is beginning to change. The change

should be aggressively led; not allowed to drift. Labor organizations have an opportunity to-day which may not soon occur again to draft for themselves a new bill of rights and responsibilities. Unions are now great organizations with such funds and personnel at their disposal as would have seemed fantastic even a quarter of a century ago. Their influence permeates the whole of American industry, unionized or not. No service which they can render can be socially more valuable than that of studying the needs of the industries in which they earn a livelihood, and allying themselves with the technicians who serve with them to increase production which will inure to the ultimate benefit of all.

*For standardization of work.* Labor should cooperate to prepare for and even demand the determination of and use of performance standards. This recommendation made by the engineer reporting on the printing industry applies to labor in many other industries as well: The unions rightly insist on reasonable hours and the best pay obtainable, but to discharge a responsibility in eliminating waste they should lend themselves to the greatest flexibility in the utilization and economy of the services of their members. It is to the worker's interest rather than to his detriment that his services should not only be efficient but definitely recorded and evaluated.

*For changing rules regarding restrictions.* Labor should change its rules regarding restriction of output, unreasonable jurisdictional classification, and wasteful methods of work, thereby removing sources of waste. Certain restrictions probably have seemed necessary to labor as a basis for trading with employers. This report is concerned with restrictions only in their relation to waste. It recommends a revision in the light of the strength and standing of organized labor to-day. The trading basis is not sufficient justification for union rules.

*For improving health and reducing accidents.* Labor is responsible no less than management for improving the health of the workers and for preventing accidents in industry. Unions have accomplished much in protecting their members through educational work in health and safety, but there is still much to be done, in cooperation with management and community organizations. Periodical physical examinations and medical advice have resulted in a number of instances in substantial improvement in the health and well-being of workmen. In many cases, however, there exists a strong prejudice against such

examinations. As a result of this unfortunate attitude many workers live in subnormal health when their condition is easily remediable.

*For improving industrial relations.* Inasmuch as the organization of personnel relationships in industry can only be accomplished through the cooperation of both employer and employee, labor should assist in such work of organization and in maintaining and utilizing the structure developed. Among the most important causes of industrial discontentment are those connected with waste in industry: intermittent employment, fear of unemployment, lack of scientific and accepted methods of determining wages and hours, inequalities of opportunity, ill health and industrial accidents, as well as those caused by backward management and restrictions of output.

### III. *Responsibility of Owners*

The owners of industry through the banking function or otherwise share in the responsibility for eliminating waste in industry. They have the duty particularly of assisting in stabilizing production. To carry out such a policy is peculiarly the banker's interest. While it is true that balance sheets and income statements are gages of the degree of success of a business, it is evident from the assay of waste that these statements often do not reveal all or even the greater part of the facts regarding production. Certain banks have an industrial staff to give service to their customers and to study industrial questions more closely. It may not be long before such things as good management methods are universally recognized as commercial assets.

### IV. *Responsibility of the Public*

*Need of public interest.* In the study of industrial waste, there can be no setting apart of the public as a separate group. The public comprises all groups, and the public's responsibility for eliminating waste is large. A campaign to increase the productivity of industry cannot be conducted without widespread interest and support. The engineers can initiate such a campaign, but they cannot press it to a solution unless the public so desires.

*Style changes.* In certain industries the consuming public is to a degree responsible for seasonal fluctuations because of the eagerness

with which it accepts or adopts changes in style. Styles should be viewed at least in part from the standpoint of usefulness and economy.

*Distribution of demand.* The public can assist in stabilizing industry by accepting a sensible distribution of demand throughout the year. This applies for example to the building industry in which there is a strong tradition to the contrary. Instead of crowding our main construction work into seven or eight months, not only must work in the slack months be developed, but all that can be deferred from the busy to the more idle season should be so deferred.

*Community cooperation with industry.* Public and semi-public agencies can assist by definitely encouraging and supporting the efforts for elimination of waste. Bodies such as local Chambers of Commerce and other civic and community associations can bring influence to bear through local conferences with the different branches of industry. In particular such effort might be directed toward the construction of dwellings, the furtherance of public health, and the prevention of non-industrial accidents. Collective purchasing agencies may assist by educating the public in better methods of buying, thus having an influence on the stabilization of industry by reducing the number of items of goods demanded and distributing the demand over a longer period of time.

### V. *Opportunity of Trade Associations*

*Work for comprehensive organizations.* Trade associations should be formed in those industries lacking comprehensive organizations. The clothing industry lacks any comprehensive trade body through which common problems can be studied and common remedies applied. The organizations supported by this industry as a whole have to do principally with marketing the product, such as displaying goods and meeting buyers. There is no joint agency studying the obvious weaknesses in manufacturing. As another example, there is no association for the printing machinery trade, and it is recommended that one be formed. In many industries which already have trade organizations a greater degree of cooperation and publicity for their work and policies would steadily improve and increase their effectiveness. Trade organizations should collect and make public trade information, including current data on production, stocks on hand, consumption,



the general price levels of essential commodities, and statistics of active and idle plant capacity. Such information would make for stability and elimination of waste.

*Industrial standardization.* Trade associations should promote programs for the standardization of cost accounting methods, the introduction of standardized material specifications, the establishment of production standards, the standardization of equipment, and the standardization of finished products.

## VI. *Opportunity for Governmental Assistance*

*National industrial information service.* A national industrial information service should be established to furnish timely, regular, and complete information on current production, consumption, and available stocks of commodities, supplementing the work of private agencies. One of the outstanding facts in connection with this essay is the scarcity of authoritative sources of satisfactory information. Various industries have tried to secure data informally. But it is essential that such information be collected and presented to the entire industrial community, including the buyer, the seller, and the banker. The great need for complete information with regard to current production and consumption and stocks of every important commodity, is obvious to all serious students of industry.

*A national statistical service.* A national statistical service should be established and maintained covering employment requirements and conditions throughout the country. The fundamental knowledge required to make a correct analysis of unemployment in any period is not at present obtainable. The meager information for such a study has to be collected from many agencies. These are under no central control, they are often not in contact and frequently duplicate effort.

During the past seven years the United States Bureau of Labor Statistics has gathered statistics of strikes and lockouts from various sources and has published them in the *Monthly Labor Review*. These figures are not comparable with the statistics contained in the earlier reports either in completeness or in accuracy. The Bureau has not undertaken any special field investigations, and it has no authority "to require reports relative to strikes from anyone." As the extent of seasonal employment and temporary shutdowns and layoffs has not

been subjected to a general statistical measurement, the resulting industrial waste cannot be determined with any degree of accuracy. There are no employment figures comparable, for instance, with those collected in England by the Board of Trade.

*Principles for adjustment and settlement of labor disputes.* A body of principles for the adjustment of labor disputes should be accepted, which can be developed with experience. Thus far American legislation for the settlement of these problems presents almost as many varieties as there are states. The nomenclature of the bodies created to deal with controversies between employer and employee may in many cases be the same, but their duties and manner of appointment differ widely. Almost the only consolation to be drawn from this legislation is the fact that it recognizes a need. In no state has the existing machinery shown itself capable of meeting a great crisis.

No federal legislation has resulted from the recommendations of the Second Industrial Conference (1919)—the most comprehensive attempt yet made in America to meet this pressing problem. In view of the waste resulting directly and indirectly from labor disputes, there is obvious need for wisdom to create and operate successfully agencies endowed with sufficient power and vision to adjust or stop the destructive and needless controversies over labor questions.

*Public health policy.* A national policy regarding public health should be accepted and put into effect. The reports dealing with health, prepared in connection with this study by a group of physicians, indicate the importance of maintaining the health of industrial workers as a factor in production and as a means of eliminating one form of waste. These reports also declare for an aggressive, continuous, national public health policy.

*National program for industrial rehabilitation.* The national program for industrial rehabilitation should be encouraged. It should offer opportunities for the education and placement of those having physical and mental defects as well as those handicapped by industrial accidents or by war. Formerly such incapacitated men were treated as if they had no economic value. Many striking examples, however, have led to the conviction that many such men can be so trained as to make them useful workers. Comprehensive efforts for their vocational rehabilitation are being made through the cooperation of federal, state, industrial, and commercial agencies.

*Nation-wide program of industrial standardization.* A nation-wide program of industrial standardization should be encouraged by the government in cooperation with industry. In the standardization of design of product, methods of procedure, and number of models, there rests a large opportunity for the reduction of waste. A special service which the government can render in this connection is the standardization of its own demands. Several government departments have their own paper specifications, for example, with no relation to each other, or to any standard brand. These departments might well take the first step by standardizing the paper they use on the basis of a selected list of well-known brands.

It is not sufficient, however, to attempt to standardize the product of a given industry, for almost every industry is so dependent upon others that they too must cooperate. The federal government could call together the representatives of the trade associations of interdependent industries and in cooperation form committees for this purpose. The opinions or decisions of such committees might from time to time be promulgated as standards of practice.

*Revision of federal laws.* Where federal laws interfere with the stabilization of industry they should be revised in the interests of the whole people. The largest area of waste lies in the periods of slack production and unemployment, due to the ebb and flow of economic tides between booms and slumps. Studies of industries as a whole show that we usually expand our equipment at the periods of maximum demand for products instead of doing our plant expansion during periods of slack consumption. While it cannot be expected that all industry could be so stabilized as to do its capital construction in slack periods, there are some industries which could be led in this direction by cooperation with the government and cooperation among themselves. This applies particularly to railways, telephones, telegraphs, power concerns, and other public utilities, and to expenditure upon our municipal, state, and national public works. As a striking example, in a seasonal industry such as coal mining, no adequate solution regarding stabilization can be found except through organized cooperation of operators, labor, railroads, and large consumers. Under existing laws as to combinations, such cooperation cannot be carried out. Therefore, we believe that federal legislation is necessary permitting such cooperation under competent government authority.

82. UNEMPLOYMENT<sup>1</sup>

Unemployment in its larger aspects is an industrial, not a personal, problem. It was widespread this last winter<sup>2</sup> chiefly because of the dislocation of our industries due to the European War. This should not cause us to forget that it was also widespread the winter before, when there was no war or rumor of war, and that, not only in this country but in every country, it is recognized by economists as a problem of growing seriousness. Underlying and magnifying unusual causes of unemployment like the present war, or the change in the tariff two years ago, are persistent and regularly recurring causes. Of these the principal are changes and improvements in methods of production and the increasing tendency toward seasonality in industries. Business in the United States is in a highly dynamic condition. Old firms are failing and new firms are starting up almost every week in almost every branch of industry. Methods of production are changing, labor-saving machinery being introduced to displace labor and new combinations of labor and machinery being devised to afford employment to new types of workers at the expense of old types who find themselves no longer required. This constant shifting gives rise to a large amount of at least temporary unemployment while adjustments are being made to the new conditions.

Added to this shifting of employments is the irregularity due to the seasonality of so many important industries. Farming is still our most important single interest. Hundreds of thousands of persons are employed on American farms in the summer who are not needed in the winter. Other hundreds of thousands find summer employment in excavation work, road building, in connection with transportation on the Great Lakes, in the canning industries, etc., who cannot be employed in the winter. To these industries which are seasonal because the nature of the work requires its suspension in the winter, are added others, quite as important in the aggregate, which are seasonal because the demand for their products varies with the seasons. Preëminent in this class are the different branches of the clothing industry. Nearly

<sup>1</sup> By Henry R. Seager, Ph.D., Professor of Political Economy in Columbia University, New York City. Adapted from "Unemployment," *Proceedings of the National Conference of Charities and Corrections*, 1915, pp. 494-502.

<sup>2</sup> 1914-1915.



all of them have two busy and two dull seasons, related to the demands for winter and summer garments respectively. It is the universal testimony of those in these trades that the busy seasons are becoming more concentrated and the dull seasons more prolonged in consequence of the growing insistence on the part of all consumers that their garments be in style. To be up-to-the-minute in the garments that they turn out manufacturers are constrained to hold back their making orders until the mysterious influences that control styles have registered their verdict. Then there is a feverish rush to turn out the garments likely to be required in the shortest possible time. Contractors and sub-contractors are called in, home-work is resorted to on a great scale, all the devices of ruthless competition are used to speed up industry to the greatest possible extent. The more active and concentrated the busy season, the greater the reaction when the dull season sets in. This is necessarily a period of widespread unemployment. The impairment in the savings of the garment workers that results from it makes them the eager victims of the second rush season. Glad to get work at all, they are easily persuaded to over-work and the same vicious circle is repeated.

Since unemployment is primarily an industrial problem, the remedies must be sought in such a reorganization of our industries as will confine it to the narrowest possible limits, and such provision for those who must still be unemployed for part of the year as will protect them from the suffering and demoralization to which they are now exposed. The measures that must be utilized to reduce unemployment to the narrowest possible limits are the regularization of industry, the dove-tailing together of industries whose busy seasons alternate, the creation of an efficient system of free public employment bureaus, and the farsighted planning of public work so that it may be prosecuted most actively when private industry is dullest. Provision for those who will still experience unemployment even after these measures have been taken, must be sought in unemployment insurance. These are the five remedies that I wish to urge on your attention.

The regularization of industry is called for by the best interests of employers, employees, and consumers. Each class may contribute something toward bringing it about. Employers direct our industries and are chiefly responsible for the way in which they are carried on. Many of them are fully alive to their responsibilities and give much

thought to the interests of their employees. Many, however, seem to feel no responsibility beyond paying the wages from day to day that they have agreed to pay. When business slackens they discharge employees wholesale, knowing from experience that these employees will be only too glad to come back when the busy season comes again. Methods of "hiring and firing" are sometimes so inconsiderate of the interests of employees that ten persons are taken on and discharged in the course of a year to keep one continuously employed. In contrast with this there are other cases where a business whose trade is largely confined to one short season—the manufacture of Christmas and New Year's cards, for example—has by careful planning spread the work out continuously through the year. It is sometimes said that the individual employer can do nothing to regularize employment, that he must follow the policies of his least scrupulous competitors; but this is an exaggeration. By giving thought to the matter, by booking orders earlier, by combining standard lines with those influenced by changing fashions, by making up stock in the dull season, some employers have shown that even seasonal industries may be made less irregular to the advantage of the employer and the still greater advantage of employees. Moreover, employers might and ought to work together through their associations to lessen seasonal fluctuations. It is sometimes charged that employers deliberately change the styles from season to season, so as to be able to sell more goods. I do not know much about it, but my impression is that they are as much the victims of changing fashions as are consumers. At any rate, I know that in one branch of the boot and shoe industry New England manufacturers have combined in creating a Styles Committee, whose task it is to try to standardize products and lessen the losses due to the depreciation of stock that is not of the very latest design.

Employees are even more concerned than employers to regularize employment. I think their efforts to reduce the amount of home-work and over-time in seasonal industries should be in every way encouraged. Much also might be accomplished by consumers. The "Shop Early" campaign of the Consumers' League has already had an appreciable influence in lessening the rush and strain of the holiday trade. A "Shop Regularly" campaign is equally needed.

The most familiar illustration of dove-tailing of industries whose busy seasons alternate is the familiar combination of the coal and ice

business. A combination of much greater significance is that of farm work in the summer and home-work in city tenement houses in the winter, on which so many Italian families depend for their year's livelihood. But for such combinations, effected in a haphazard way by the workers themselves with little aid in the form of vocational guidance or wisely directed employment bureaus, unemployment would be even a more serious problem in the United States than we ordinarily experience.

The regularization of industry has obvious limits beyond which it cannot be carried. Farming must remain predominantly a summer occupation; removing snow from city streets exclusively a winter's task. At best, in a country like the United States there must be a large amount of shifting of workers from industry to industry and from section to section. This makes an efficient system of free public employment bureaus, able to connect the manless job and the jobless man promptly and with a minimum of trouble both to employer and employee, the most important measure in any program for relieving unemployment.

The fourth remedy for unemployment, which in a winter such as that we have just passed through must be called in to the largest possible extent, is the prosecuting of public works like subway construction, road building, manufacturing uniforms for the military and civil government employees, etc., which will give employment to those not needed in private industry. All possible pressure should be brought to bear on the city, state, and national governments to work out plans for public improvements extending over the next ten years or so, with a view to being ready to push such work with vigor when the next serious period of unemployment overtakes us. The principal cause of the unemployment we have just passed through was the war. The principal cause of the industrial revival we are now experiencing is war orders that have come to some of our manufacturers in huge volume. Business prophets are now looking forward to a year of great industrial activity, but before next winter comes the war may be over, war orders that have not been executed may be cancelled, and our industries may be again dislocated in the process of adjustment to peace conditions. Is it too much to ask that those who direct public policies, instead of congratulating themselves on the fact that the worst is over, make plans and set aside money now to be used when

the next emergency arises? Any prudent business man would so apply the lesson of last winter. Cannot we expect our public officials to show an equal degree of forethought?

Even if all the measures that I have described were taken and every effort were made to regularize industry, to train workers, and to connect those out of work with available opportunities for work, there would still remain a considerable number of unemployed in the dull seasons. A large number of manual workers are sure to be out of work in the winter in a country like the United States, when farming industry is largely suspended, when northern lakes and rivers are frozen over, and when construction work must be largely discontinued. In the same way the clothing industry, so long as people dress differently in summer than in winter, and try to dress stylishly at all seasons, will have its busy and its dull seasons. The last measure in a complete program for dealing with unemployment is unemployment insurance.

For wage-earners a moderate amount of unemployment each year is not, or should not be, a disadvantage. The only way the wage-earner can get a continuous vacation, ordinarily, is by being unemployed. Everyone ought to have a vacation. Two weeks off every year is a modest enough standard. If by some plan wage-earners could be divided up into twenty-six equal groups, and each group given two weeks' holiday in rotation the proportion unemployed would be 4 per cent. This proportion would be doubled to 8 per cent if four weeks' holiday, two weeks in every six months, were provided for.

Unemployment insurance aims, on the one hand, to provide wage-earners with assured, though modest, incomes during the periods when they are unemployed; and, on the other, to encourage the passing around of unemployment, so that, instead of falling with crushing weight on a minority of wage-earning families, it will be shared in by a larger number and become for them the means to periodic vacations.

That the curse of unemployment can thus be transformed into the blessing of a needed holiday may seem to many of you too good to be true. But this claim is not based on mere speculation. In well organized trades, where seasonal unemployment recurs regularly year after year, as in the building trades, something like this is actually achieved by the out-of-work benefits of trade unions long common in the United Kingdom and beginning to be introduced into the United



States. It was, in fact, in the form of the out-of-work benefits of trade unions that unemployment insurance first made its appearance. These benefits were so popular that in the United Kingdom, before the national insurance act of 1911 was passed, eighty-one of the one hundred principal unions had them and expended on them about one-third of their total incomes.

In these well-organized trades, the trade union secretary acts as an employment agent. In the interest of fairness he tries to prevent any member from drawing his out-of-work pay for an unreasonable length of time. Consequently, in supplying to employers the names of men who desire work, he picks out those who have received unemployment benefits longest. By this means, if the proportion of unemployed is not too great or too long-continued, the normal period of unemployment for any individual wage-earner is prevented from exceeding a reasonable holiday. The average number unemployed from 1894 to 1908 never exceeded 8 per cent in the organized trades in the United Kingdom from which returns were regularly obtained. Eight per cent of unemployment passed around among all the wage-earners in an industry means, as already explained, four weeks lost time in a year—a month's vacation.

With its national system of free public employment exchanges, established in 1909, in successful operation, the United Kingdom introduced in 1911 its system of compulsory unemployment insurance for employees in building and construction work. By this step it became the first country in the world to attack unemployment as a national problem. Employers in these trades are required to see to it that their employees secure from the government insurance offices, of which 1000 odd were opened in addition to those equipped in the 430 employment bureaus, unemployment insurance cards. On these they are required to paste each week five pennies' worth of insurance stamps, which they buy like ordinary postage stamps from the post offices. They are required to pay one-half the price of these stamps, or five cents a week, for each employee, themselves, and permitted to deduct the other half from wages.

To the sums secured by the sale of the stamps the government adds out of the public treasury one-third more, or three and a third cents a week for each insured employee. Though so small in amount these payments aggregated in 1913 about £2,300,000 or \$11,500,000, out

of which benefits could be provided. The benefit paid is not large, only seven shillings a week, but enough under English conditions to preserve a family from outright destitution. This may be increased by trade unions in organized trades on condition that the union pays at least one-fourth of the total, so the usual benefit in such trades is twelve shillings a week. Moreover, to encourage trade unions to provide out-of-work benefits for their members, the government grants a subsidy of two shillings per unemployed member to every union which pays a benefit of twelve shillings a week, provided that in administering the system the union conforms to regulations applying to the compulsorily insured. In 1913, in addition to the 2,400,000 compulsorily insured, 600,000 were voluntarily insured through their unions. The chief limitations on the benefits are that they begin only with the second week of unemployment and continue for not more than fifteen weeks in any one year.

There is every evidence that this plan was working quite successfully up to the time of the war. Also it seems to have met the severe test of war conditions without drawing very heavily on the reserve fund that had been accumulated and now seems to be operating as well as in the preceding period of peace. In the first year the income exceeded the expenditure by about £1,600,000, or \$8,000,000, and, though a considerable reserve is needed, it looks as though the government had been unduly cautious in its estimates and could afford to pay a higher benefit than the seven shillings a week it now provides. This success has been due to the care with which its operation was safeguarded so as to prevent fraud, on the one hand, and to induce employers to exert themselves to lessen the amount of unemployment, on the other.

There is no kind of insurance that presents the same temptation to fraud as unemployment insurance. Anyone can imitate a man out of work and anxious to get work. It is the most familiar kind of imposture in modern communities. Moreover, there are always wage-earners who find work so distasteful that they will eagerly seize any opportunity to get out of it. They are the small minority, but numerous enough to wreck any plan of unemployment insurance if not held in check. The only sure way of testing the good faith of a man who says he wants work is to offer it to him. It is right here that the British public employment bureaus render an indispensable service.

Of the four hundred thousand insured persons who were unemployed during the first six months that the British law was in full operation, 30 per cent were found jobs before the end of the first week. Sixty-two per cent were found jobs before the expiration of the fifteen weeks during which unemployment benefits were paid to them, 7 per cent were for some reason disqualified from receiving benefits, and only 1 per cent remained unemployed after the period when their benefits ceased.

In practise the system thus served in large measure its purpose of passing unemployment around—one-third of the total number insured being unemployed at some time in the year—and of giving some income to the unemployed during their involuntary holiday. As confidence is established in the ability of the employment bureaus to find jobs for their clients, the anxiety which has been associated with unemployment will disappear, and men who are temporarily out of work will be able to extract some pleasure from the experience.

Employers are given a strong motive for trying to regularize employment by two circumstances: First, they have to pay one-half of the premium. If they can reduce unemployment so that the income of the fund will prove more than is needed they have a good case for demanding that the premiums be made smaller. Second, if they pay premiums for the same employee for fifty weeks in the year they are entitled under the plan to a refund of one-third of their contribution. This gives them a motive for trying to employ continuously as many of their employees as possible.

Another ingenious feature of the system has made it acceptable to steady-going workers who are so valuable to their employers that they run little risk of being discharged. Any wage-earner who has been insured against unemployment for ten years and has made five hundred contributions to the fund, may, on reaching the age of sixty, claim a refund of all that he has put in less all that he has received in benefits compounded at  $2\frac{1}{2}$  per cent interest. For him the system combines the advantages of government-guaranteed savings for old age with those of unemployment insurance.

Up to the outbreak of the war the British plan of unemployment insurance was proving successful. There is nothing in our American conditions that should prevent us from introducing a similar plan here. Several of our trade unions, like the Cigar Makers and the Printers, have out-of-work benefits in successful operation. These and our

municipal and state public employment bureaus can be made the starting points for systems of obligatory, state-directed unemployment insurance.

In the five measures that have been urged, the regularization of industry, the dove-tailing together of employments whose busy and dull seasons alternate, the organization and efficient operation of connected public employment bureaus, the planning of public work so as to make provision for the unemployed when private industry is depressed, and unemployment insurance, I believe we have the essentials of a solution of this problem.

### 83. STANDARD RECOMMENDATIONS FOR THE RELIEF AND PREVENTION OF UNEMPLOYMENT<sup>1</sup>

1. *Organization.* Organize the community as long as possible before unemployment becomes acute, including any necessary reorganization or coordination of existing agencies. The appointment of an unemployment committee by the governor or by the mayor, if improper political influence is guarded against, insures semi-official standing and greater prestige. Include in the membership all classes concerned, such as employers, workingmen, public officials, social workers, civic leaders, and representatives of churches, lodges, and women's clubs. To carry out preventive measures, permanent organization, not temporary activity during a crisis, is essential.

2. *Education.* Upon the basis of careful information gathered from employment offices, relief agencies, and all other available sources, bring the facts of the unemployment situation home to every citizen. Emphasize civic and industrial responsibility. Avoid "the ostrich policy of refusing to face the facts on the one hand and hysterical exaggeration of facts on the other."

3. *Emergency relief.* Avoid duplicating the work of existing organizations. Do not advertise the existence of large relief funds or other provisions for relief without work, or give indiscriminate relief to able-bodied men. Except as a last resort, discourage the starting of bread lines, bundle days, soup kitchens, and similar measures. As far as possible supply aid by means of employment, at standard rates, but on part time, to encourage early return to regular occupation. Open

<sup>1</sup> By the American Association for Labor Legislation.



workshops and secure odd jobs from householders. Do not provide work for housewives who are not ordinarily wage-earners, instead of for their jobless husbands. For the homeless, provide a municipal lodging house, with a work test, or a cooperative lodging house under intelligent supervision and leadership. Abolish the "passing on" system, but do not make provision for non-residents at the expense of resident unemployed family men.

4. *Separation of unemployable and unemployed.* Differentiate the treatment of the unemployable from that of the unemployed. Develop appropriate specialized treatment based on the continuous work of trained social investigators for the inmates of the municipal lodging house. Provide adequate facilities for the care and treatment of the sick, the mentally defective, and the aged. Develop penal farm colonies for shirks and vagrants, training colonies and classes for the inefficient, and special workshops for handicapped and sub-standard workers.

5. *Industrial training.* Provide industrial training classes with scholarships for unemployed workers.

6. *Employment exchanges.* If one is not already in existence, open an employment exchange to centralize the community's labor market, using private contributions if necessary in the initial stages. Beware of poor location and insufficient appropriations, of political appointees, and general inactivity. Do not start temporary philanthropic exchanges in times of depression if there is a public bureau which can be made efficient. Stimulate the cooperation of citizens to improve the existing public exchange and to coordinate the work of non-commercial private bureaus. Secure adequate legislation establishing permanent state or municipal bureaus, extending joint city-state-federal control in their administration, and regulating private agencies. Work for federal legislation and appropriations to develop a national system of employment exchanges.

7. *Public work.* Start or push forward special public work, using private contributions in time of urgent need if public funds cannot be obtained. This should not be "made" or unnecessary work, but needed public improvements in as great variety as possible, so as to furnish employment to other sorts of persons besides unskilled laborers. Give preference to resident heads of families if there is not work enough for all applicants. Employ for the usual hours and wages, but

rotate employment by periods of not less than three days. Supervise the work carefully and insist upon reasonable standards of efficiency. To avoid the difficulties of emergency action make systematic plans for the regular concentration of public work in dull years and seasons by special provisions in the tax levy or by other appropriate method. Urge the repeal of laws restricting cities to contract work. Secure the aid of state and national officials in stimulating local action. Steady the employment of the regular force, retaining employees on part time in preference to reducing their numbers.

8. *Regularization.* In times of depression urge the use of regular employees in making repairs and improving the plant, and the policy of part time employment rather than reduction in numbers. Do not rely upon general appeals to "Do it now," "Hire a man," and the like, addressed to the public-at-large without definite suggestions as to method. Rouse employers to the importance of the problem and the advantages of regularization. Stimulate careful planning for this purpose by experts as part of the regular routine of business management. Encourage the formation of employment managers' associations.

9. *Unemployment compensation.* Work for the establishment by legislation of a system of unemployment compensation, supported by contributions from employers as the most just and economical method for the proper maintenance of the necessary labor reserves and as supplying the financial pressure needed to secure the widespread regularization of industry.

#### 84. REDISTRIBUTION OF HUMAN TALENT AND OF LABOR<sup>1</sup>

It is a common error to suppose that justice would eliminate poverty. If by justice is meant merely that each individual should get exactly what he produces, or what he is worth, it is certain that poverty would not be eliminated, and might not even be materially diminished. If each one gets only what he produces, or what he is worth, and if he does not produce enough to live upon, or if he is not worth enough as a worker to earn a wage which will support him, he will still be poor. Before we can eliminate poverty, therefore, we must not only secure

<sup>1</sup> By T. N. Carver, *Essays in Social Justice*, pp. 359-375. Adapted from a paper on "The Redistribution of Human Talent," read by the author before the Vocational Guidance Association, Cambridge, Massachusetts, 1911.

justice for each individual, but we must also see to it that each one is made worth enough, or productive enough to enable him to live comfortably upon his earnings.

Nor would this result come about automatically under a regime of strict justice. The bad distribution of human talent would still exist unless measures were taken to redistribute it according to needs. By the bad distribution of human talent is meant something quite similar to what would exist if material commodities were badly distributed in proportion to the need for them. If there is more of one commodity in a certain place than is needed, and less of another, the one will have no price and no purchaser, while the other will have a high price and many purchasers for each unit. Or, if there is almost as much of the one as is needed, and much less of the other, the one will have a low price, and it will be difficult to find buyers enough, whereas the other will have a high price and buyers will have difficulty in getting enough of it.

This law is particularly effective when we consider factors which have to be combined in the production of a given article. In a dry country where there is an abundance of nitrogen, phosphorus, and potash in the soil, but no water, there may be a great demand for agricultural products, but these elements of fertility will be of little value. The man who tried to sell commercial fertilizer in such a community would starve. But water, being the scarce factor, or the limiting factor, and everything depending upon it, will command a good price. The man who can supply such a community with water will have no difficulty in selling it. Moreover, this would be just. Fertilizer, in that situation, is unproductive in the only sense in which the word productive has any real place in economics. Ask the question, how much more grain could be grown on that land if there were more fertilizer, and you will get some idea of the value to such a community of the services of the fertilizer man. He might be getting all he was worth, and yet be poor, in spite of the fact that he might be a thoroughly good man and his fertilizer first class. But ask yourself the same question respecting water and you get an idea of the productivity of the water company. More water more crop. The men who bring water to this land may be no better than the men who bring fertilizer, and the water may be no better as water than the fertilizer is as fertilizer, yet if the water men get what their service is actually

worth, they will get a large share of the product of the land, whereas the fertilizer men would, on the same terms, get a small share. This inequality in the distribution of the products of agriculture would not be due to social injustice, but to the bad distribution of the factors of production. This is the fundamental difficulty, of which the bad distribution of products is but the symptom. One who thought he could cure this bad distribution of products by merely changing the social system of distribution would only be covering up symptoms. In a rain-soaked country where fertilizers are scarce, the conditions and the results of the illustration would be exactly reversed.

Take any illustration you choose where several ingredients have to be mixed to get a given commodity, or several factors combined to get a given product, and you will invariably find that if the factors do not exist in the proportions called for, some being scarce and others abundant relatively to the need, those which are abundant will have little real productivity per unit according to any rational economic test, and those which are scarce will have a high productivity per unit. One unit more or less of the abundant factor will make little difference with the product. Very little product depends, therefore, upon any given unit. A new unit of this abundant factor will not be much needed, will not be worth much. But the factor which is scarce, which does not exist in sufficient abundance to combine with all the other factors, is really the limiting factor. One unit more or less makes a large difference in the product. Much product, therefore, depends, under these circumstances, upon each and every unit of the scarce factor. This is what is meant by saying that, economically speaking, the productivity per unit of the scarce factor is greater than that of the abundant factor. It would be a greater gain to production to have a new unit of the scarce factor than to have a new unit of the abundant factor. It would be a greater loss to production to lose a unit of the scarce than to lose a unit of the abundant factor.

This relation between conditions and results may be termed an economic law. It is a law which lies deeper than forms of social organization. It is grounded in the laws of physics. No scheme of social reform which would try to get at this inequality of prices by merely changing the social machinery would be worth a moment's consideration. It would not have advanced beyond the policy of treating symptoms rather than causes.



It happens, under the modern system of production, with its elaborate division of labor, that many different, non-interchangeable kinds of labor have to be combined in the production of a given article. These different kinds of labor are to be treated as different factors, and bear precisely the same relation to one another as fertility and moisture in the soil. All that was said of moisture and fertilizer in the growing of crops, or of charcoal and saltpetre in the making of gunpowder, may be repeated of two different kinds of labor power, or talent, in the manufacture of any commodity. Where two or more non-interchangeable kinds of labor power, or human talent, have to be combined in production, and one is found in greater abundance than will combine satisfactorily with the limited supply of another, you have precisely the same condition in the labor market that you have in the fertilizer market where there is more fertilizer than will combine with the limited supply of soil moisture, or in the charcoal market if there is more than will combine with the limited supply of saltpetre. In other words, wherever you have a bad distribution of human talent, more of one kind than will combine satisfactorily with the existing supply of another kind which has to be combined with it in production, there you will have a bad distribution of the products of industry. Moreover, this bad distribution of products cannot be attributed to social injustice if by social justice is meant merely that each one shall get exactly what he produces. For, if one kind of labor power exists in greater abundance than will combine satisfactorily with the existing supply of some other factor, you have a situation in which any unit of that kind of labor can be eliminated with very little loss to production, and the addition of a new unit would bring very little gain to production; all of which means that, unit by unit, this kind of labor would have a very low productivity. Yet it might be very good labor, and under other conditions it might have a very high degree of productivity. That is to say, bring to this labor a larger supply of those factors which have to be combined with it, but which we have assumed to be scarce, and every unit of this kind of labor will then be needed to combine with those new factors. Then the loss of a unit of this kind of labor would mean a larger loss to production, and the addition of a new unit would mean a larger gain to production, all of which means that, unit by unit, this kind of labor has literally become more productive, not through any change in itself, but through the increase

of the other factors which have to be combined with it. This proposition is likely to be an occasion of stumbling to some, but it need not be to any one who can see that, in one of the foregoing illustrations, the chemical elements of fertility in the soil in a dry country may be made literally more productive by increasing the supply of another factor, viz., moisture.

It is a sad commentary upon the intelligence of our social reformers that so many of them fail to see the significance of this elementary economic principle, and continue to apply their remedies to symptoms rather than to attack the causes of the bad distribution of wealth. Because vocational guidance and vocational education go at the underlying cause, instead of attacking symptoms, they must appeal to every real progressive. By training the rising generation out of those occupations where labor power is over-abundant and into those where it is under-abundant, you not only increase the productivity of every individual so trained, and therefore of society at large, which is very important; but you accomplish the still more important result of tending to equalize incomes in different occupations. If the talent commonly understood to be possessed by the employing classes, so-called, can be made as abundant relatively to the demand for it as that of the so-called laboring classes, there will be no great difference in the incomes of the two classes.

There is danger, however, that this program may fail if it is carried out in a half-hearted and incomplete manner. If it aims merely at redistributing the supply of human talent among the laboring classes, that is, at making a more efficient body of employees, increasing the supply of skilled labor, it will result only in reducing the wages of skilled labor and enabling the employing classes to get skilled help at a lower cost than now, and thus increase their profits. What is particularly needed is a more numerous and more skilled class of employers. Of all classes of human talent, the scarcest, relatively to the need for it, is genuine entrepreneur ability. So scarce is this ability that it is like water in a thirsty land, where fertility and every other factor of production are abundant, only needing moisture to make them productive. We have enormous quantities of unskilled labor, but few men who know how to use them. This knowledge—the “knowing how”—is the scarce factor. If we can increase the supply of this rare kind of knowledge, then these vast stores of unskilled

labor, now with a low degree of productivity, will be made more productive. More men who know how,—know what to do,—will fructify this mass. Ability to discern genuine opportunities for new enterprise, which is investing ability, and probably the rarest of all; ability to coördinate and organize the factors of production, which is managing ability in the higher sense, and which is, next to investing ability, the scarcest of them all; and ability to direct men in the actual work of production, which is administrative ability, and is also somewhat scarce, need especially to be increased. The scarcity of these kinds of talent reduces the effective demand for the lower grades of labor, just as the scarcity of water reduces the demand for fertilizer in the foregoing illustration. Conversely, the enormous supplies of labor, needing to be directed, create an enormous demand for these scarce forms of talent, just as the supply of fertility in the soil needing to be irrigated, creates a demand for water, in the foregoing illustration. An abundance of entrepreneur talent and a scarcity of labor will bring down the price of the one and bring up the price of the other as surely as an abundant supply of water on a western plain, and a scarcity of fertilizer would bring down the price of the one and bring up the price of the other. In this direction, and in this direction alone, must we look for a solution of the problem of the bad distribution of wealth.

From the standpoint of a country which receives considerable numbers of laborers by immigration, the problem of the distribution of wealth is materially affected thereby. Migrations of laborers are brought about by a bad territorial distribution of the labor supply. When there is an excess in one region and a dearth, or a milder excess, in another region, the obvious remedy is a territorial redistribution. This tends toward equality as between different regions. But there may also be a bad occupational distribution, with an excess in one occupation, and a dearth, or milder excess, in another. The remedy is equally obvious. Instead of a migration from one region to another, there needs to be a "migration" from one occupation to another. This, however, can usually take place only as a result of vocational training, which should have one and only one purpose, to train men for those occupations where men are scarcest and most highly paid. This will, at the same time, relieve those where men are abundant and poorly paid.



One of those half truths which are more dangerous than falsehoods is the statement, which so frequently emanates from the sapient minds of editors and magazine scientists, that since laborers are themselves consumers as well as producers, there must of necessity always be work enough. It is scarcely conceivable that one of those who repeat this statement would go so far as to say that there must necessarily be work enough for each laborer at the exact spot where he happens to stand. If one once admits that it may be necessary for the laborer to move from the spot where he happens to be standing, the way is then open for a rational solution of the problem. Why should it be necessary for him to move? If he is an agricultural laborer, and he is standing on a crowded street corner, he must at least go where there is land to cultivate. This is an admission that something else besides labor is necessary. There must be land. But if he is in the country where there is land, but every farm is equipped with as many laborers as can be satisfactorily employed, he may have to go farther, until he finds a place where land is more abundant, or labor scarcer, which means the same thing. That is why agricultural laborers migrate.

But he might be at a spot where there is an abundance of land, but no tools with which to work. Unless he is prepared to make his own tools he may have to migrate again, until he finds a place where there is such a combination of land and tools as will furnish him the opportunity he is seeking. Or again, there may be no farmer with sufficient business ability to see how to use any more men to advantage; again he will have to migrate until he finds one who can, unless he can become his own manager. It is also conceivable that there might be so many farm laborers in his community, and so few factory laborers, miners, etc., to produce things to exchange for farm products, or so few carriers to transport them, as to destroy the opportunity for enlarged farm production. In that case our farm laborer, or others like himself, may find it necessary to change their occupation. In short, to say that there must be work for everybody means nothing unless you qualify it by saying that there is opportunity for any conceivable number of men provided they can be properly distributed, both territorially and occupationally. If they are not so distributed, it is quite possible that there might be more on a certain spot than can possibly be employed on that spot, and more in a given occupation than can possibly be employed in that occupation.



This part of our discussion may be summarized as follows:

1.<sup>1</sup> One large factor in the bad distribution of wealth is the bad distribution of men among the different occupations, too many crowding into the unskilled and too few going into the skilled and the learned occupations.

2. Children born of parents who have not been able to rise out of the poorly paid occupations are themselves more likely, on the average, to remain in these occupations than are the children of parents who have risen into the more highly skilled and better paid occupations to sink back into the poorly paid occupations.

3. Therefore, it would help matters if the birth rate could be reduced among those who remain in the overcrowded, underpaid, and unskilled occupations, and increased among those who succeed in rising into the more highly paid occupations.

So long as immigrants enter a country in considerable numbers, and enter the ranks, particularly the lower ranks, of labor<sup>2</sup> in larger proportions, and the ranks of the business and professional classes in smaller proportions than the native born, continuous immigration will produce the following results:

1. As to Distribution. It will keep competition more intense among laborers, particularly in the lower ranks, and less intense among business and professional men, than it would otherwise be. This will tend to increase the income of the employing classes, and to depress wages, particularly the wages of the lower grades of labor.

2. As to Production. It will give a relatively low marginal productivity to a typical immigrant, particularly in the lower grades of labor, and make him a relatively unimportant factor in the production of wealth,—a few more or less will make relatively little difference in the total production of national wealth.<sup>3</sup>

<sup>1</sup> From a paper on "The Occupational Distribution of the Labor Supply," read by the author before the American Economic Association, in Washington, D. C., 1910.

<sup>2</sup> Compare Commons, *Races and Immigrants in America*. Table between pages 108 and 109.

<sup>3</sup> A disproportionately large supply of one grade of labor as compared with the supply of other grades of labor with which it has to be combined in production, tends to make each laborer in that grade an unimportant factor in production, so that one laborer more in that grade adds very little to, and one laborer less subtracts very little from the total quantity which can be produced. By way of illustration, the reader is again referred to the gunpowder illustration.

3. As to Organization of Industry. Because of their low individual productivity, they can only be economically employed at low wages and in large gangs.<sup>1</sup>

4. As to Agriculture. If immigrants go in large numbers into agriculture, it will lead to one or the other of the following results, in all probability the latter:

*a.* The continuous *morcellement* or subdivision of farms, resulting in an inefficient and wasteful application of labor, and smaller crops per man, though probably larger crops per acre; or

*b.* The development of a class of landed proprietors on the one hand, and a landless agricultural proletariat on the other.

If there are large numbers of immigrants belonging to races, or nationalities which do not fuse with the rest of the population by free intermarriage, or with which the rest of the population will not intermarry freely, there will result one of the three following conditions:

1. Geographical separation of races; or
2. Social separation of races, i.e., in the formation of classes or castes, one race or the other becoming subordinate; or
3. Continual race antagonism, frequently breaking out into race war.

Of equal importance with the increase in the demand for the labor which is now poorly paid is the decrease in the supply. For a country such as the United States of America, which receives such large supplies of unskilled labor by immigration, the first and most obvious remedy is a restriction of immigration. This is in no way to be associated with race prejudice. It is wholly a question of the occupational redistribution of our labor supply.

Wherever any particular class of labor is, for a considerable period, scarce and hard to find, there the conditions of labor are good for that class and it needs no social legislation for its protection; but wherever any particular class of labor is abundant and easy to find, there the conditions of that class of labor are bad except where mitigated by the

<sup>1</sup>Just as scarce labor and abundant land lead inevitably to extensive farming where a small quantity of the scarce factor, labor, is combined with a large quantity of the abundant factor, land, so a relatively small supply of managing ability and a relatively large supply of the kind of labor which must be superintended, leads inevitably to a combination of a small quantity of the scarce form with a large quantity of the abundant form, i.e., one superintendent, foreman, or boss, over a large gang. Again, just as in the former case there will be high wages and low rent, so in the latter case there will be high salaries and low wages.

kindliness of individual employers, or by various kinds of social legislation, most of which are ineffective.

When any employer can hang out a shingle saying "men wanted" and have ten men apply for every job, so that he can merely take his pick and send the rest away, conditions are very easy for employers, but correspondingly hard for laborers. When any laborer can hang out a sign reading "job wanted" and have ten employers apply for his help, so that he can take his pick and send the rest away conditions will be as easy for laborers as they were under the first named conditions for employers, and as hard for employers as they were for unskilled laborers. So long as the former conditions prevail, the term "wage slavery," while inaccurate, will continue to convey a real meaning to the laboring man. Where the latter conditions prevail no one can use that term with a straight face. So long as the former conditions prevail, there will be a widespread feeling, and this feeling will be justified, that the laborer is in a helpless situation, so far as economic laws are concerned, and that his only hope is in numbers and brute strength. When this feeling is widespread, laboring men will be excused, if not justified, in the use of violence. There will be no effective public opinion to support the state in its efforts to preserve law and order. When there is some approach to the latter conditions there will be an easy recognition of the fact that the laborers are not in a helpless condition, that they do not need to rely on numbers and brute strength, and public opinion will then support the state effectively and promptly in its maintenance of law and order.

While it may not be possible or desirable to reach such extreme scarcity of laborers and abundance of employers as described under the last named conditions, it is both possible and desirable to make some progress toward that condition and away from the first named condition. We can train a few more men to become employers, creators of new business enterprises, and thus increase somewhat the number of jobs for laboring men. This will do our present laboring population little good if the new jobs are promptly filled by immigrants. There must also be a restriction of immigration.

If immigrants entered the class of employers in the same proportion as do the native born, they would not materially disturb the balance. But they enter the laboring class almost exclusively, and the class of unskilled laborers predominantly. If they were excluded (which is

not here proposed) our free education and liberal institutions would encourage them to rise rapidly out of the class of unskilled laborers, into the scarcer and better paid occupations. This would soon make unskilled labor, and ultimately all poorly paid labor, so scarce and hard to find as to put laborers in a strong position economically and make it unnecessary for them to resort to numbers and brute strength. Moreover, employers would have to offer satisfactory inducements to persuade laborers to work for them, and very little social legislation for the alleged protection of the laborers would then be necessary.

Better than exclusion would be a plan of restriction which would select those who were capable of entering the well paid occupations and exclude those who would crowd into occupations where wages are already too low. The best way to do this would be to reverse our present contract labor law, and admit only such immigrants as could present contracts, signed by responsible employers, guaranteeing employment at two dollars a day for at least a year. (It is not necessary that the wage should be exactly two dollars. That is about the minimum on which a family can be supported in comfort and decency in any large city in this country.) This would admit all the laborers who were really needed. No employer can say, with a straight face, that he needs a man so very badly unless he is willing to pay him as much as two dollars a day. At the same time it would prevent the coming of hordes of cheap laborers whose influence is to depress the wages of unskilled labor. It would make the lower grades of labor so scarce as to eventually make two dollars a day the actual minimum wage without the difficulty of enforcing a minimum wage law.

If this reversal of the contract labor law is considered politically impossible, the literacy test comes as near an ideal as anything that has been proposed. This is said with a full recognition of the fact that literacy is not an invariable test of character. Neither is it an invariable test of fitness for the civil service, or for entrance to college. It is believed, however, that if all literate immigrants are arranged in one group, and all illiterates in another, the average of the literates would be better than that of the illiterates. Excluding illiterates would therefore improve the average quality of our immigrants.

Again, the illiterates go predominantly into the unskilled trades where wages are low. The exclusion of illiterates would therefore tend to make unskilled labor scarce, while the admission of literates would



permit us to get all the skilled labor we need, that is, to increase our supply of any kind of labor which can in any sense be said to be scarce.

It will be observed that nothing has been said in the above statement, about race, religion, eugenics, or anything of the kind. The reasons for favoring the restriction of immigration are purely economic. They relate wholly to the problem of improving the conditions of labor. The time is probably coming when any one's protestations of interest in the cause of labor in America, or of social welfare, will be laughed out of court unless he is willing to do the one thing which will really help labor, that is, make it scarce and hard to find, or jobs abundant and easy to find, which means the same thing.

The increase in the prosperity of the small farmer, who does most of his own work on his own farm, is quite as important as that of the laborer. His salvation depends upon his ability to compete with the large farmer or the farming corporation. Two things threaten to place him under a handicap and to give the large farmer an advantage over him in competition. If these two things are allowed to operate, the big farmer will beat him in competition and force him down to a lower standard of living and possibly to extinction.

One thing which would tend in that direction is a large supply of cheap labor. The small farmer now has an advantage in America because of the difficulty which the big farmer has in getting help. So great is this difficulty that many of the bonanza farmers are giving up the fight and selling out to small farmers. That is, the big farms, the farms that can only be cultivated by gangs of hired laborers, are being divided up. Give the owners of these farms an abundant supply of cheap labor,—make it easy for them to solve the problem of efficient help,—and they will begin again to compete successfully with the small farmer who, because he does his own work, has no labor problem. If we can keep conditions such that the capitalistic farmer has great difficulty in getting help, the small farmer will continue to beat him in competition, and the bonanza farm will continue to give way to the one-family farm.

By pursuing a consistent policy of reducing the supply of unskilled labor, of increasing the supply of the scarcer kinds of employing talent, as well as the supplies of land and capital, we can, by progressive stages, approach as near to equality of incomes as between occupations as we care to.

## CHAPTER XXIII

### PRINCIPLES OF PUBLIC RELIEF OF THE POOR IN ENGLAND

#### 85. SKETCH OF THE EVOLUTION OF THE POOR LAW<sup>1</sup>

The Poor Law . . . takes its rise from the Act of Queen Elizabeth's reign whereby parishes were to make assessments for the support of the poor with the general idea that the poor should be put to a useful and remunerative work. The causes which produced this Act were the fact that at the Reformation the old mediæval system whereby the Church, and particularly the monastic orders, were in the main responsible for the poor, was swept away, and also the changes produced at the same time by the first enclosures and the introduction of sheep-farming, which caused widespread distress and necessitated some new form of social machinery to cope with them. During the eighteenth century the habit of giving pecuniary relief to the poor had the effect of wholesale pauperisation of the population, particularly in the rural areas where Poor Law relief grew into a regular supplement to wages, with the result that not only were wages reduced to a very low level, but practically none but those in receipt of allowances from the parish could get work. It is unnecessary here to describe the state of affairs due to indiscriminate out-door relief, or to the effect of the law of settlement on the economics of the country side. It was ended by the Poor Law Commission of 1834, and future legislation and administration were based on the principles laid down therein.

In brief outline these principles were, that relief was for the destitute, not for the poor; that the condition of the pauper must not be made more eligible than that of the outside worker, and that the Poor Law must be deterrent, that is to say, that the aim of its administration must be to prevent people obtaining assistance. The principal method whereby this was to be effected was by the abolition as

<sup>1</sup>From *The Social Worker* (pp. 82-87), by C. R. Attlee, M.A. G. Bell and Sons, Limited, London, 1920.

far as possible of all relief given to people in their own homes, and the offer instead to take them into the workhouse, which was to be a place that would not be willingly entered by anyone. The various categories of persons under the Poor Law were to be segregated into separate Institutions, and the Poor Law was to be administered by elected persons, while the Administrative Unit was extended from the parish to the Union of parishes. The immediate effect was a great reduction in the number of paupers, accompanied by an intense unpopularity of the new Poor Law among the labouring classes, which has lasted to the present time. It is important to remember that these principles were adopted to deal with a very definite state of affairs, that of the wholesale pauperisation of the working classes and were based on the assumption that the old Poor Law was the cause of much, if not of all, of the prevailing poverty, and that once the system of doles had been abolished the normal man would be able to gain adequate subsistence for himself and his family through his own exertions; the Poor Law was to be only for the destitute, and there was no intention of using the power of the State to help the poor or to raise the standard of life.

It was also intended to deal, in the main, with the pauperisation of the able-bodied, and Poor Law institutions were to be divided into sections for the able-bodied, the aged, the sick, etc. The failure of the Poor Law was due to a number of factors, the chief of which was the failure to realise that poverty and destitution were normal incidents of the modern industrial system, and that in the absence of any possible way of finding out whether a man was, for instance, unemployed through his own fault, or through circumstances out of his control, it was impossible to enforce the workhouse test. Further, despite the proposed classification of paupers, in practice the general mixed workhouse continued, and it was impossible to enforce strict administration on the different categories of persons thrown together under a common roof. And despite the principles of 1834, outdoor relief persisted. Above all, the Poor Law did nothing to prevent destitution arising, but only dealt with it after it had arisen. It dealt only with results and not with causes; thus whether the administration was strict or lax there remained year in and year out a great body of persons who were suffering from poverty, although not assisted by the Poor Law. It is unnecessary to labour this point of the failure of the

Poor Law, for it is shown by the fact that other agencies have had to step in and do the work which from its very nature a destitution authority was unfitted to perform. Wherever it was attempted to enforce strict administration and to deter applicants from coming to the Poor Law, missions, soup kitchens, night shelters, and other charitable institutions sprang up. Charity, whether organised or unorganised, whether working in conjunction with the Poor Law or against it, failed entirely to solve the poverty problem.

In course of time there arose a series of new authorities based on prevention rather than cure, which attacked the problem from a different angle. Thus the medical side of the Poor Law could not extend, as its services were confined to the destitute, but the public health authorities in town and country originally formed for sanitary purposes have gradually extended into all sorts of activities dealing with the prevention of the origin and the dissemination of disease. Another invasion of the medical side of the Poor Law was brought about by the National Health Insurance Act, and at the present time we are well on the road to a unified public health service.

In the same way the education authorities have had to extend their functions from dealing with the minds to dealing with the bodies of their children, supplying school meals and medical treatment, and in some cases residential schools. The care of persons of unsound mind was gradually transferred, as to the greater number of such persons, to the Asylum Committees of the County and County Borough Authorities, while a realisation that the workhouse was no fit place in which the worn-out slaves of industry should finish their lives led to the passing of the Old Age Pensions Act. Finally, the able-bodied man, who was particularly the subject of the Poor Law, is now looked after to a great extent by the Central Government. Unemployment is recognised as a disease of industrialism; the Unemployed Workmen's Act was entrusted to the local authorities other than the destitution authorities, and later attempts at prevention of unemployment by the establishment of employment exchanges and unemployed insurance were further examples of a passing by of the Poor Law authorities, and the creation of new machinery to deal with the able-bodied. Thus, throughout the country there were rival authorities dealing with the same groups of people, the one in so far as they were destitute, the other in accordance with their various needs. At the present time, as



is indicated in the Ministry of Health Act, it is proposed to abolish the Poor Law as an unspecialised service dealing with the destitute, and split up its functions among the other authorities, thus adopting in the main the lines of reform laid down by the minority of the Poor Law Commissioners of 1909. Owing to its nature and the principles upon which it was based it was impossible for the Poor Law Authority to form a nucleus round which might gather the charitable efforts of a neighbourhood, nor owing to its principles and the fact that its areas cut across the other lines of local administration, could it be linked up with new authorities. It could only be the last resort of the destitute, and its fundamental principle of deterrence prevented it from becoming part of any movement for the extension of the activities of the organised community to the communal provision of services necessary to its welfare. On the other hand the growth in the activities of local bodies and the constant extension of the work of their various committees into spheres of work that were formerly considered the particular preserve of charitable and voluntary associations make it admirably fitted to be a centre for all kinds of social work. This does not mean that there is not room for groupings of voluntary workers in such organisations as the Guilds of Help, but that these associations will more and more take up the attitude of assisting by personal service the operation of the organised community. Instead of being, as in the Charity Organisation Society conception, an alternative service to that of the State or Municipality, worked on different principles, and considered to be more favourable to the individual, the Guild of Help will seek rather to assume partnership in the undertakings of the local authority, supplementing the paid official with the personal service of the volunteer.

## 86. CONTRAST OF THE PRINCIPLES OF 1834 AND OF 1907<sup>1</sup>

### *The Departures from the Principles of 1834*

The principles of the 1834 Report, to which different people will assign different degrees of scope or importance, are three in number . . . the Principle of National Uniformity, the Principle of Less Eligibility, and the "Workhouse System."

<sup>1</sup> By Sidney and Beatrice Webb. Adapted from *English Poor Law Policy*, pp. 257-271. Longmans, Green & Co., London, 1913.

*The principle of national uniformity.* The Principle of National Uniformity—that is, of identity of treatment of each class of destitute persons from one end of the kingdom to the other—for the purpose of reducing the “perpetual shifting” from parish to parish, of preventing discontent, and of bringing the parochial management effectually under central control, is, in 1907, with one notable exception, in practice abandoned. Uniform national treatment is to-day obligatory with regard to one class only of destitute persons, the wayfarers or vagrants.

With regard to the non-able-bodied classes—the children, the sick, and the aged—who now comprise four-fifths of the whole pauperism, it is hardly too much to say that the precisely opposite principle has been adopted, that of permitting experimental variations by the 646 boards of guardians. The maintenance of children in a general workhouse, in “barrack schools,” in cottage homes, in scattered homes, in certified schools or institutions, in families within the union, in families outside the union, with their relatives on a boarding-out allowance or with their own parents on outdoor relief—at a cost to the rates varying from 1s. up to more than 20s. per head per week—are all policies actually in operation in one union or another, to the knowledge and with the permission of the Central Authority. The aged are less open to experimental variations, but even here we find the “workhouse test,” the comfortable aged ward, the special “almshouses” for the well-conducted, and the grant of adequate outdoor relief to every “deserving” person, all recommended to different boards of guardians, simultaneously or alternately, by order, letter, or inspector’s advice. Only with regard to the wayfarer does the Central Authority still adhere to the policy of an indiscriminating uniform refusal of outdoor relief to all applicants irrespective of merit.

*The principle of less eligibility.* The Principle of “Less Eligibility”—that is, that the condition of the pauper should be “less eligible” than that of the lowest grade of independent labourer—(though, as we have shown, asserted explicitly in the 1834 Report only of the able-bodied) is often regarded as the root principle of the reforms of 1834. The Central Authority in 1907 applies this principle unreservedly to one class only, the wayfarers or vagrants. In 1907 the Central Authority orders the wayfarer, without discrimination of character or conduct, to be relieved only in a casual ward, under a

regimen not only inferior to that of the able-bodied ward of the workhouse, but also, in food and amenity of accommodation, distinctly less eligible than the condition of the poorest independent labourer. Moreover, even this "less eligible" relief is accompanied by compulsory detention and a task of hard labour of monotonous and disagreeable character.

With regard to all other classes except the able-bodied men and their dependents, the Central Authority has, de facto, abandoned the Principle of Less Eligibility. It prescribes merely a policy of "adequacy" of maintenance according to the actual requirements of each case, viewed from the standpoint of modern physiology, irrespective of whether the maintenance is at home or in an institution. This, it is clear, is much above the standard attained by the lowest grade of independent labourer. When this maintenance is given at home (as it is with the explicit permission of the Central Authority in the majority of cases) it is not accompanied by any other drawback than the "stigma of pauperism." In respect of the extensive classes of the sick and the children, the Central Authority may even be said to have avowedly adopted a diametrically opposite policy to that of "less eligibility," namely, the principle of substituting for relief the best possible "treatment," with the intention of making these paupers actually more fit than the lowest grade of independent labourer. And, short of entire removal out of the Poor Law (as has actually been done with the able-bodied who are "unemployed," the children in industrial schools, and the patients of the Public Health Department), everything possible has been done to remove the "stigma of pauperism" from the children in Poor Law institutions and from the recipients of medical relief.

*The workhouse system.* The principle commonly known as "the Workhouse System"—the complete substitution of "indoor" for "outdoor" relief—was, as we have shown, no part of the recommendations of the 1834 Report for any but the able-bodied. It was, however, adopted by the strictest of the reformers of 1834–1847, and again by those of 1871–1885, as the only effective method of applying the Principle of Less Eligibility and of reducing pauperism. The workhouse, on this principle, was not to be regarded as a place of long-continued residence, still less as an institution for beneficial treatment, but primarily (if not exclusively) as a "test of destitution," that is, as

a means of affording the actual necessities of existence under conditions so deterrent that the pauper would rather prefer to maintain himself independently than accept the relief so offered. This is still the policy of the Central Authority, but only for one class of paupers, the wayfarers or vagrants. As we have seen, there are, in 1907, alternative methods of relief for the other classes, preferred by the Central Authority. In the case of the aged, the Central Authority explicitly lays it down that the "deserving" applicants ought not even to be urged to enter the workhouse, and ought to be given outdoor relief adequate for their maintenance in their own homes. In the case of the able-bodied, the "respectable" applicant is to be referred to the distress committee, outside the Poor Law altogether; whilst in periods of unemployment the Central Authority permits the outdoor relief of the less respectable destitute men against a labour test. With regard to the sick and children, the very idea of a deterrent workhouse has disappeared, and the policy is to afford them "treatment" (including maintenance wherever required), either in their own homes, or in other people's homes, or in institutions, in the manner, and to the degree, calculated to promote their utmost efficiency.

### *New Principles Unknown in 1834*

In the policy of the Central Authority, as we find it in 1907 in the statutes, orders, and circulars in force, there are discoverable three separate principles, which were neither advocated nor condemned in the 1834 Report, because they were either unknown, or not considered relevant to the relief of the destitute. These are the Principle of Curative Treatment, the Principle of Universal Provision, and the Principle of Compulsion.

*The principle of curative treatment.* The Principle of Curative Treatment—that is, of bringing about in the applicant actual physical or mental improvement, so as to render him positively more fit than if he had abstained from applying for relief—may be considered the direct opposite of the Principle of Less Eligibility. It might, indeed, be termed the Principle of Greater Eligibility. This principle has been gradually evolved by the Central Authority in the course of the last fifty or sixty years; but it has characterised in particular the administration of the Local Government Board ever since its establishment



in 1871. We see it most thoroughly applied to the sick and the children; though not yet to all sections even of these classes.

In all the development from the earliest "district school" to the most up-to-date "cottage home," the whole policy of the Central Authority has been to provide the most efficient education for the child, so that it shall be positively more able to cope with the battle of life and less likely to fall again into the ranks of pauperism than the child of the lowest grade of independent labourer. In the Poor Law institutions for children sanctioned in recent years, the Principle of Greater Eligibility has been carried so far as to result in the provision, for the pauper child, of physical training, mental education, and prolonged supervisory care, extending over more years of life, and costing more per head per annum, than the corresponding provision usually made for children even of the lower middle class. But though the Principle of Curative Treatment has been carried to a high pitch in respect of some sections of the child pauper population, it has been scarcely at all applied to other sections. It is, indeed, not too much to say that, with regard to the children on outdoor relief, the contrary Principle of Less Eligibility is still the governing policy. An investigation into their condition might show that a large proportion of them, upon the relief afforded, are more likely to fall into disease, vice, or pauperism than the average child of the lowest grade of independent labourer. For these children the policy of the Central Authority does not include either supervision or systematic medical inspection, either the protection of the child's leisure from industrial work or even any minimum provision for its maintenance, let alone any selection of a suitable skilled occupation for it or any subsidised apprenticeship. All that the Central Authority does for these hundred and seventy thousand pauper children is to ask that they should be vaccinated and should be in regular attendance at a public elementary school—advantages which they share with the non-pauper children.

We do not find that the Principle of Curative Treatment has been deliberately applied to the other classes of paupers. To the aged, curative treatment is, indeed, scarcely applicable, but it is interesting to trace, in the policy of expressly directing the grant of adequate outdoor relief to the deserving aged, combined with the statutory requirement that a friendly society allowance is not to be taken into account in such grant, a sort of Principle of Greater Eligibility. With

regard to the able-bodied, there is a certain premonition of the Principle of Curative Treatment in the farm colony. Indeed, there is only one class of paupers to which the Central Authority has rigidly refused to apply this new principle. From the casual ward every trace of curative treatment has been eliminated.

*The principle of universal provision.* But what is most strikingly new since 1834 in the policy of the Central Authority is the Principle of Universal Provision, that is, the provision by the State of particular services for all who will accept them, irrespective of "destitution" or inability to provide the services independently. We see this principle in most municipal action, but it impinges on the work of the Poor Law authorities most directly in such services as vaccination, sanitation, and education. From the standpoint of the Poor Law critic, this principle avoids the characteristic Poor Law dilemma, and escapes alike the horn of making the condition of the patient so bad as to be injurious to him, and that of making it better than the lot of the lowest grade of independent labourer. In providing vaccination, sanitation, and education—to say nothing of parks, museums, and libraries—indiscriminately for every one who is ready to accept them, the State does nothing to diminish the inequality of condition between the thrifty and the unthrifty.

*The principle of compulsion.* The Principle of Compulsion—in the sense of treating an individual in the way that the community deems best, whether he likes it or not—is, of course, as old as the lazaretto, "Bedlam," and the gaol. Such compulsory treatment may have for its object deterrent punishment, reformation, and cure, or mere isolation from the world. In all three aspects this principle now forms an integral part of the policy of the Central Authority for one or other classes of destitute persons. The able-bodied man or woman in the workhouse is, under certain circumstances, to be compulsorily detained, for a day, or even a week, in order to deter him or her from passing too frequently "in and out." Quite different are the objects, isolation from the public and their own cure, with which the infectious sick are now compulsorily detained in the workhouse infirmary or isolation hospital. We may note, too, that the power to detain lunatics, for isolation, if not for cure, has, since 1834, been stretched so as to include many harmless persons of defective mind, who are now regularly certified for detention.

*The Contrast between 1834 and 1907*

It is not without interest to contrast the three "principles of 1834" with the three "principles of 1907." In both cases the three principles hang together, and form, in fact, only aspects of a single philosophy of life.

The "principles of 1834" plainly embody the doctrine of *laissez faire*. They assume the non-responsibility of the community for anything beyond keeping the destitute applicant alive. They rely, for inducing the individual to support himself independently, on the pressure that results from his being, in the competitive struggle, simply "let alone." As the only alternative to self-support, there is to be presented to him, uniformly throughout the country, the undeviating regimen of the workhouse, with conditions "less eligible" than those of the lowest grade of independent labourer.

The "principles of 1907" embody the doctrine of a mutual obligation between the individual and the community. The universal maintenance of a definite minimum of civilised life—seen to be in the interest of the community no less than in that of the individual—becomes the joint responsibility of an indissoluble partnership. The community recognises a duty in the curative treatment of all who are in need of it; a duty most clearly seen in the medical treatment of the sick and the education of the children. Once this corporate responsibility is accepted, it becomes a question whether the universal provision of any necessary common service is not the most advantageous method of fulfilling such responsibility—a method which has, at any rate, the advantage of leaving unimpaired the salutary inequality between the thrifty and the unthrifty. It is, moreover, an inevitable complement of this corporate responsibility and of the recognition of the indissoluble partnership, that new and enlarged obligations, unknown in a state of *laissez faire*, are placed upon the individual—such as the obligation of the parent to keep his children in health, and to send them to school at the time and in the condition insisted upon; the obligation of the young person to be well-conducted and to learn; the obligation of the adult not to infect his environment and to submit when required to hospital treatment. To enforce these obligations—all new since 1834—upon the individual citizen, experience shows that some other pressure on his volition is required than that which results

from merely leaving him alone. Hence the community, by the combination of the principles of Curative Treatment, Universal Provision, and Compulsion, deliberately "weights" the alternatives, in the guise of a series of experiments upon volition. The individual retains as much freedom of choice as—if not more than—he ever enjoyed before. But the father finds it made more easy for him to get his children educated, and made more disagreeable for him to neglect them. It is made more easy for the mother to keep her infants in health, and more disagreeable for her to let them die. The man suffering from disease finds it made more easy for him to get cured without infecting his neighbours, and made more disagreeable for him not to take all the necessary precautions. The labour exchanges and the farm colonies aim at making it more easy for the wage-earner to get a situation; perhaps the reformatory establishment, with powers of detention, is needed to make it more disagreeable for him not to accept and retain that situation.

#### 87. REPORT OF THE POOR LAW COMMISSION AND THE RECOMMENDATIONS OF THE MINORITY<sup>1</sup>

We may now attempt to sum up the position as it presents itself, after the deliverance of the Royal Commission, to the statesman and to the public opinion of 1910.

There is first the chaos of authorities, the overlapping of functions, and the duplication of services, resulting in the expenditure, out of rates and taxes in the United Kingdom, on the maintenance, schooling, and medical attendance of the poorer classes of nearly seventy millions sterling annually. During the past five years, even whilst the Royal Commission was sitting, this multiplication of overlapping authorities has proceeded at a great pace. In 1905 the Unemployed Workmen Act created a rival authority for relieving the able-bodied man. In 1906 the Education (Provision of Meals) Act, in 1907 the Education (Administrative Provisions) Act, and in 1908 the Education (Scotland) Act and the Children Act, set up the Local Education Authority as a rival to the Poor Law Authority in regard to providing food, medical attendance, and all other necessities for children found desti-

<sup>1</sup>From *English Poor Law Policy* (pp. 312-319), by Sidney and Beatrice Webb.



tute at school. In 1908, too, the Old Age Pensions Act established a rival authority for the maintenance of the destitute aged. Meanwhile, the Local Health Authorities have been told to take over the destitute man who has phthisis, and to extend in many directions the range of their work; the Departmental Committee on Vagrancy has declared that a new authority must be found for the vagrants, and the Royal Commission on the Care and Control of the Feeble-minded has come to the very authoritative conclusion that all grades and kinds of mentally defective persons must be taken out of the Poor Law altogether. The result is that, already in 1910, the number of persons being actually fed at the public expense by the Local Education Authorities, the Local Health Authorities, the Local Lunacy Authorities, the Local Unemployment Authorities, and the Local Pension Authorities, exceeds, in the aggregate, the number of persons being fed by the Poor Law Authorities. For every separate section of the pauper host there are now at least two Public Authorities at work—sometimes three or four Public Authorities—with duplicated machinery, overlapping services, officers competing with each other on rival principles of action, in not a few cases simultaneously providing for the same persons without knowing of each other's work.

The Poor Law Authorities themselves, and the bulk of their work, the Royal Commission found extremely unsatisfactory, and are unanimous in condemning, not so much from any personal shortcomings of the twenty-four thousand guardians as from the nature of the task to which they had been set. The assistance that they dispense, by its very nature, comes too late to be preventive of the occurrence of destitution, and, in the majority of cases, too late to be curative. Whatever may be decided as to its successor, it is clear that the existing Poor Law System and the existing Poor Law Authority, must, to use the expressive words of Mr. Balfour's election address, be "scrapped."

The Majority Commissioners hold, on the assumption that every case of pauperism implies a moral defect, that there should be, in each locality, one Authority and only one Authority to deal with persons requiring maintenance from public funds. They therefore recommend the establishment of a new "Destitution Authority" to deal only with persons who are destitute, and only when they are destitute; and for such persons to provide, from birth to burial, in distinctively Poor Law Institutions, or under distinctively Poor Law officials, all that is

required. It is admitted that this involves the repeal of the Unemployed Workmen Act and the Education (Provision of Meals) Act. We must leave politicians to judge whether it is practicable to thrust the unemployed workman, and the child found hungry at school, back into the Poor Law, even if the Poor Law is called by another name. But even if this were done, the Majority Report would still leave the overlap as regards the destitute aged which is involved in the Old Age Pensions Act; the overlap as regards the destitute sick which is involved in the evergrowing activities of the seven hundred rate-maintained municipal hospitals of the Local Health Authorities; the overlap with regard to destitute children which is involved by the activities of the Local Education Authorities and the Home Office under the Industrial Schools Acts, and now under the Children Act. And the Majority Commissioners cannot, it appears, make up their minds whether or not they wish the recommendations of the Royal Commission on the Feeble-minded to be carried into law, and thus end the overlap between the Poor Law Authority and the Lunacy Authority.

The Majority Report purports to give the new "Public Assistance Authority" some guidance as to policy. It is to relieve none but those at present entitled to relief, and therefore, in all cases, to wait until destitution has set in. Thus the aid will, as now, come too late to prevent or to cure. On the other hand, the "deterrent" attitude of 1834 is to be given up; the workhouse is to be abolished; and "curative and restorative treatment," at home or in an appropriate institution, is to be afforded to every case. Yet in order to afford to certain classes of applicants methods of relief and treatment more suitable than any Public Assistance Authority is to be allowed to afford, a complete system of Voluntary Aid Committees is to be set up, and to such Committees these particular applicants are to be required to apply, whether or not they prefer charity to public aid.

Against these proposals of the Majority Report the Minority Commissioners protest that they will not put a stop to the calamitous and extravagant overlapping of services and duplication of work which now exists or to the demoralising chaos that prevails as to recovery of cost. Moreover, the Minority Commissioners hold that if the community restricts itself to relieving persons at the crisis of their destitution, and this is a necessary condition of any Poor Law, or of the action of any Destitution Authority, whatever its name, the com-

munity cannot, without grave financial danger, and still graver danger to character, depart from the principles of 1834. However unpopular may be the doctrine, it is still true that if destitute persons are to be given "curative and restorative treatment" without deterrent conditions and without the stigma of pauperism, a constantly increasing number of persons will, unless they are in some way prevented from sinking into destitution, come in and out of the Poor Law as it suits their convenience, to their own grave demoralisation and at a ruinous cost to the nation. But the heart and conscience of the community will not tolerate the subjection of all the million paupers indiscriminately to deterrent conditions, especially as these have now been proved to be seriously detrimental in their effects. The whole phraseology of the Majority Report, and its proposals themselves, afford convincing testimony to the necessity of giving up the idea of a "deterrent" Poor Law. And the Majority Report gives us no substitute for this deterrence—unless, indeed, it can really be imagined that the operation of the Voluntary Aid Committees is somehow to protect us.

The only effective substitute for deterrence is, the Minority Commissioners suggest, the Principle of Prevention—prevention, that is, not merely of pauperism, but of the very occurrence of destitution. This negatives the very idea of a Destitution Authority, whatsoever its designation or its policy. It is in vain to hope that any Poor Law, or any Destitution Authority, however improved, can ever prevent or even diminish destitution; because, confined as it is to dealing with a destitution which has occurred, it is inherently precluded by its very nature from attacking any of the causes which produce the destitution that is perpetually coming on its hands. Thus, the twenty millions sterling now spent annually in the United Kingdom on the mere relief of destitution do practically nothing to prevent the creation, year by year, of new masses of destitution. Even the educational work which the Poor Law Authorities do for the Poor Law children is largely vitiated by their inherent disability to exercise any supervision over the life of the child before and after the crisis of destitution. The greater part of the expenditure on the Poor Law Medical Service is, so far as any gain to the health of the nation is concerned, wasted because no sick person can legally be treated in the incipient stage of his disease when it may still be curable; the Poor Law doctor must always wait until destitution has set in! This—so the Minority Com-



missioners claim—must necessarily be the same in the case of the "Public Assistance Authority" proposed in the Majority Report, or, indeed, in the case of anybody set to administer a Poor Law. On the other hand, the fact that universal provision of some services to all persons, whether destitute or not, has been adopted by Parliament, has led to a duplication and confusions of functions between the old Poor Law Authority and the new Preventive Authorities. This daily-increasing overlap and duplication can only be ended by either stripping the new Preventive Authorities of functions entrusted to them within the last few years by Parliament—which is plainly impossible—or by abolishing the Poor Law. Hence the only safe, as well as the only advantageous way out of this confusion is to go forward on the Principle of Prevention. This Principle of Prevention may take the form, on the one hand, of altering the environment, on the other, of treating the individual. But if the cost of curative treatment, or even of altering the environment, is to be borne by the community, it is essential, on grounds of economy, that there should be a searching out of all incipient cases and such a disciplinary supervision as will prevent persons from becoming destitute through neglected infancy, neglected childhood, preventable illness, and voluntary unemployment.

In this disciplinary supervision over those who repeatedly fall into the morass of destitution, or who, by failing to fulfil their social obligations, show signs of entering upon the descent into that morass, we see a more humane, as well as a more effective form of "deterrence" than that of the 1834 Poor Law. The newer preventive authorities deter from falling into destitution, not by fear of what will happen when the fall has taken place, but by timely insistence on the performance of the social duties that will prevent the fall. The parents who, under the pressure of the Local Education Authority, are induced and compelled to send their children to school from five to fourteen years of age are not only effectually "deterred" from living on their children's earnings, but are also prevented from so far neglecting their offspring as to fail to get them to school regularly and punctually, or to fail to maintain them in a state fit for admission to school, according to a standard that is constantly rising. In some districts the Local Education Authority has even gone far, by means of inspection, instruction, exhortation, and, in the last resort, prosecution, towards effectually "detering" parents from letting their children become



verminous. Deterrent action of this kind by the Local Education Authority has been accompanied by corresponding action by the Local Health Authority, which has—again by inspection, instruction, exhortation, and, in the last resort, prosecution—induced many occupiers of tenement dwellings to prevent these from remaining verminous or otherwise grossly below the current standard of sanitation. This form of deterrence it is that lies at the base of all our Public Health and Factory Legislation; a deterrence that leads the owners and occupiers to bestir themselves to keep their dwellings up to the current local standard of healthiness, the occupiers of factories to maintain these in accordance with the requirements of the law, and the operatives in unhealthy trades to observe the precautions prescribed against disease. The same idea of a preventive deterrence will inspire the Local Lunacy Authorities, once they are made responsible for the feeble-minded, to insist on proper care and control for those helpless girl mothers whom the Poor Law must perforce leave free to propagate a feeble-minded race. In the same way the Minority Commissioners believe that the new National Authority for Unemployment, of which we may detect the beginnings in the National Labour Exchange, will be able to “deter” men from becoming unemployed, not only by actually preventing many unnecessary breaches of continuity in employment (by equalising, year by year, the aggregate demand for labour, regularising employment in the seasonal trades, and “decasualising” the casual labourer in the ways elaborately described in the Report), but also by putting the necessary pressure on the will of those who are “born tired” or who have become “unemployable,” either to accept and retain the situations that will be definitely offered to them, or else to submit themselves to disciplinary training, with the reformatory Detention Colony in the background.

We venture to end this exposition of the philosophy of the Minority Report of 1909 by a repetition of the words that we used, perhaps prematurely, to describe those “Principles of 1907,” to which, as we have demonstrated, three-quarters of a century of experience has empirically brought the Local Government Board itself. These principles, we pointed out—in contrast to the *laissez faire* of 1834—“embody the doctrine of a mutual obligation between the individual and the community. The universal maintenance of a definite minimum of civilised life—seen to be in the interest of the community

no less than in that of the individual—becomes the joint responsibility of an indissoluble partnership. The community recognises a duty in the curative treatment of all who are in need of it—a duty most clearly seen in the medical treatment of the sick and the education of the children. Once this corporate responsibility is accepted, it becomes a question whether the universal provision of any necessary common service is not the most advantageous method of fulfilling such responsibility—a method which has, at any rate, the advantage of leaving unimpaired the salutary inequality between the thrifty and the unthrifty. It is, moreover, an inevitable complement of this corporate responsibility, and of the recognition of the indissoluble partnership, that new and enlarged obligations, unknown in a state of *laissez faire*, are placed upon the individual—such as the obligation of the parent to keep his children in health, and to send them to school at the time and in the condition insisted upon; the obligation of the young person to be well conducted and to learn; the obligation of the adult not to infect his environment, and to submit when required to hospital treatment. To enforce these obligations—all new since 1834—upon the individual citizen, experience shows that some other pressure on his volition is required than merely leaving him alone. Hence the community, by the combination of the principles of Curative Treatment, Universal Provision, and Compulsion, deliberately ‘weights the alternatives,’ in the guise of a series of experiments upon volition. The individual retains as much freedom of choice as—if not more than—he ever enjoyed before. It is made more easy for the mother to keep her infants in health, and more disagreeable for her to let them die. The man suffering from disease finds it made more easy for him to get cured without infecting his neighbours, and more disagreeable for him not to take all the necessary precautions. The labour exchanges and the farm colonies aim at making it more easy for the wage-earner to get a situation; perhaps the reformatory establishment, with powers of detention, is needed to make it more disagreeable for him not to accept and retain that situation.” It is, in short, this doctrine of a mutual obligation—this fundamental principle that social health is not a matter for the individual alone, nor for the Government alone, but depends essentially on the joint responsibility of the individual and the community for the maintenance of a definite minimum of civilised life—that inspires every detail of the Minority Report.

## CHAPTER XXIV

### PUBLIC RELIEF OF THE POOR IN THE UNITED STATES

#### 88. THE AFTERMATH OF PUBLIC OUTDOOR RELIEF IN BROOKLYN<sup>1</sup>

Public outdoor relief was abolished in Brooklyn by the Board of Supervisors, January 31, 1878, on the opinion of their legal adviser that such relief was illegal. The opinion held that the class entitled to support included only those unable to earn their own living and the law provided that they should be maintained in poorhouses provided by the county, where the relief could be supervised by those authorized to do so. The only exception to this was that temporary relief might be given to the sick, lame, or otherwise disabled, until and only until it became practicable to remove the person to the almshouse.

The counsel advised the supervisors therefore that all money granted in aid of the poor contrary to these plain provisions was illegal, and that the overseers were liable to indictment. Whereupon public outdoor relief in Brooklyn was terminated in the middle of the winter of 1878, a winter of more than ordinary severity.

The main facts about the abolition of such relief in Brooklyn may be briefly summarized as follows:

1. Prior to its abolition the number of persons receiving public relief in their homes increased faster than the population, and in 1877 amounted to 46,330 persons. In 1878 this aid was stopped. Notwithstanding this there followed a decrease rather than an increase in the number of persons cared for in the public institutions as compared with the population of Brooklyn.

2. During the ten years next preceding 1878, Kings County, that is Brooklyn, spent an average of almost \$129,000 a year for the relief of persons in their own homes, while the Brooklyn Association for Improving the Condition of the Poor, the chief private relief society in Brooklyn at that

<sup>1</sup> By Thomas J. Riley, Ph.D., General Secretary of the Brooklyn Bureau of Charities. Adapted from *Proceedings of the National Conference of Charities and Correction*, 1916, pp. 337-344.

time, spent on the average \$22,252 a year for material relief. Although public outdoor relief was entirely cut off, this society gave an average of \$18,981 a year for the six years following 1878. In other words, the abolition of public relief was followed by a decrease in the relief disbursements from private sources also.

3. The abolition of public outdoor relief did not cause any increase of distress among the poor or any increase of the number of children in private institutions at the expense of the county under the provisions of the Children's Law of 1875 which made it illegal throughout the state to keep children over three years of age in the almshouse.

In a word, the stoppage of public outdoor relief in Brooklyn caused some forty-six thousand persons to depend upon themselves instead of upon charity, whether public or private, and there was no increase in distress among the poor.

Does the experience of Brooklyn condemn the giving of charitable aid from public funds to persons in their own homes as such, or does it condemn only its administration as it was practiced there? Such considerations as the following have led me to believe that it was the administration and not the relief itself that failed in Brooklyn.

Probably no one today would advocate the method by which public outdoor relief was given in Brooklyn. One set of men, the Board of Supervisors, ordered the supplies and another set of men, the Commissioners of Charities, distributed them, and there was almost constant friction between them. Applicants for relief came with their baskets to the offices of the commissioners and carried away such relief in kind as they might receive.

No one has more ably or correctly described the situation than Mr. Alfred T. White, as secretary of a group of about three hundred men and women who, inspired by the Elberfeld system, volunteered to visit the families who should apply for aid in the winter of 1877-1878. He says:

There were five distributing offices, to some one of which each ward of the city was assigned, each having its particular day for distribution. On these days many hundreds of women would often sit in a crowd for hours with their baskets waiting for their weekly dole. Paid visitors to the homes of the applicant had been tried and found worse than useless. One winter every applicant had been compelled to swear to her poverty; and still the number grew. It is difficult to conceive of a more demoralizing method of administering a system which is pernicious even when best



handled than Brooklyn labored under until 1876. . . . As the visitors called on the applicants for aid, it was found of course that in the majority of cases there were able-bodied men, able to work and often at work. It was found the rule in tenement houses for every family to apply for relief, each woman feeling entitled to aid because her neighbor had aid. In some cases self-respecting women were compelled by their neighbors to take their baskets and demand public aid with the rest, because, presumably, no superiority in such matters would be tolerated. It appeared especially in the older wards that a large population calculated upon this public relief as a part of their annual income and were shiftless during the summer because sure of aid in the winter.

Many who said they would not take private aid regarded the public dole as an obligation due them by the county and demanded it accordingly; while on every hand it was seen that the system put a premium on misrepresentation and falsehood. In general it reached the class whom it did not benefit and failed to reach those who really needed aid but were supplied by private charity. No one could see his neighbor supported, in whole or in part, at the public expense without being tempted to draw rations from the same generous treasury, and industrious men and women were rapidly demoralized by this open reward to laziness and lying.—*Lend a Hand*, June, 1886, p. 335.

Such criticisms have generally been interpreted as reasons for the abolition of public outdoor relief, but as a matter of fact they were used by the Volunteer Visitors Association in an effort to reform the administration of such aid. Indeed the reforms had been all but accomplished when, to use the language of the *New York Times*, there came "into office a new Board of Supervisors anxious for political influence and greedy for patronage" and reversed the action of the old board and ordered a free disposition of groceries to be made as before. Then, and not until then, did the visitors give up hope and cease their efforts to reform the administration of the relief.

On January 24, 1878, only one week before the relief was abolished the visitors met and passed the following resolutions, which only hint in a single place at the abolition of relief:

RESOLVED, that we denounce as dangerous and demoralizing and altogether bad the efforts of the Commissioners of Charities and of members of the present Board of Supervisors to reinstate a system which puts a premium on fraud and misrepresentation; which disgusts the respectable poor and attracts the worst classes; which tempts paupers to immigrate here from surrounding counties; which offers a reward to idleness and

shiftlessness and discourages industry and thrift and which violates law and disgraces our civilization.

RESOLVED, that in the judgment of the visitors here present . . . it is better, under the circumstances, to retire from the work when distribution of groceries begins and until the Board of Supervisors or the Commissioners are willing to heed our recommendations, lest our countenance to a bad cause may serve to blind the community to an evil which it unfortunately appears cannot be alleviated but must be exterminated.

Public outdoor relief was abolished only after attempts to reform its administration had failed. St. Louis, Baltimore, Washington, and other cities also abolished it. Philadelphia abolished it except as to medical aid. In other places the relief was not abolished but was reformed. Boston continued it and through careful administration has kept the number of beneficiaries and the amount of money spent well under control. Buffalo, by a reform in her methods of administration, and especially by a co-operation with the private charities, has kept its disbursements well within bounds.

The state of Indiana, through reform laws and good administration, has accomplished economies similar to those brought about elsewhere through the abolition of public outdoor relief.

If we may judge from the reports that come from Denver it seems clear that county outdoor relief can be administered in a way not only to prevent pauperizing families but to rehabilitate them following charity organization methods and to enlist the aid of volunteers. The advocates and administrators of the mothers' aid laws in the various states claim, and many who have been skeptical concerning them confess, that the relief and aid of these families have been as satisfactory as those from private sources, while some claim for them great superiority.

Recently I had the privilege and duty of acting as an examiner of candidates for investigators under the Board of Child Welfare and the Bureau of Social Investigations of the Department of Public Charities of the City of New York. I am also frequently called upon to choose employees for a large charitable society. It is my judgment that those who presented themselves for the public employment compared very favorably with those employed for similar work in the private charitable societies. This has not always been so, but with the development of the civil service and the opportunities for special

training there is no reason why there may not be as high standards of qualifications and service in the public as in the private charities.

The charity organization movement has done much to develop the principles and to standardize the technique of case work with families, yet it may be that its greatest service will be to present these principles and this technique to the public administration and to educate the taxpayer to an appreciation of the value of a constructive service for families.

### 89. THE ADMINISTRATIVE BASIS OF PUBLIC OUTDOOR RELIEF<sup>1</sup>

The administrative basis of any movement should be determined by the task it has undertaken. A sound administrative basis represents a careful analysis of the problem to be worked out in terms which almost suggest the appropriate administrative machinery. There should, therefore, be a close connection between the conception of a given task which is held by those responsible for working at it and the administrative procedure which they follow.

*The common conception of the task of public outdoor relief.* The common conception of the task of public outdoor relief is relatively simple. It assumes a group of persons who are unable to provide for their own needs, and it is satisfied with material relief as the means of aiding them. This conception of the task is reflected in the poor laws of the various states. With the exception of Maryland, every state in the Union defines more or less specifically the obligations of local communities or of the state itself to give relief to those who cannot maintain themselves. The language of the laws varies; but their beneficiaries are always the same; they are the "necessitous," the "pauper," "needy persons," the "indigent," or the "destitute," the implication being in each instance that they lack sufficient income for bare subsistence.

The assistance which the poor law makes available for those whose infirmities it thus takes into account is practically confined to material relief, the commodities of food, fuel, and in some instances of rent, clothing, and transportation. Almost the only exception is that in

<sup>1</sup>By Porter R. Lee, Director of the New York School for Social Work. From *Proceedings of the National Conference of Social Work*, 1917, pp. 146-154.

some places free medical attention may be arranged for if application is made for it.

We should not assume that the mere giving of relief, which is the whole of this program, is also its whole purpose. In practice, at any rate, there are evidences that the recipients of relief are expected with the aid of the relief given to work out of their difficulties, the relief from this point of view serving the purpose of "tiding them over." Moreover, in nine states<sup>1</sup> the law either specifically or by implication limits public outdoor relief to cases of temporary need. This also contemplates, apparently, the rehabilitation of the recipients of such relief. The poor laws themselves, however, do not prescribe any active steps on the part of public relief officials to bring about such a result. So far as the legal provisions go, and this is true also of the almost universal practice, anything beyond material relief which is needed to restore families to self-maintenance is not a part of our traditional conception of the task of public outdoor relief.

*Administrative procedure under this conception.* As would be expected, the administrative machinery provided to carry out this conception of the task is comparatively simple. No poor law and almost no city charter recognizes special qualifications for the work of administering public relief as of sufficient importance to warrant specific mention of them. With few exceptions the procedure to be followed with applications is not stated, except as certain steps are implied in the condition that relief shall be given only to respectable persons, to those not able to work, etc.

If we pass from the provisions of the poor law to the working principles of the officials, we find no evidence of more elaborate procedure. At best the well-nigh universal tests by which public officials determine their action upon requests for aid are two: is this family a relatively decent family, and is their income really insufficient to keep life going? The chief decision is to aid or not to aid, aid meaning usually the granting of meagre amounts of groceries or fuel. It is unusual to find officials whose chief concern is to avoid aiding if possible and if a decision not to aid is reached, their responsibility is ended. This old conception of the task of public outdoor relief is not adequate. The administrative basis for which it is responsible

<sup>1</sup> These states are Alabama, Connecticut, Delaware, Illinois, Michigan, Minnesota, Mississippi, New Jersey, and West Virginia.



can never lead to satisfactory results. To formulate an administrative basis that will get satisfactory results, it is necessary to analyze the problem of dependence which furnishes the task of public relief.

*Dependence in terms of disabilities.* In a study of the charities of Springfield, Illinois,<sup>1</sup> the following disabilities were discovered in the three hundred and one families which had received relief from the overseer of the poor during the year 1913: widowhood, desertion, mental deficiency, intemperance, tuberculosis, unemployment, sickness (not tuberculosis), crippled condition, blindness, non-support, old age, orphaned condition, imprisonment.

The report of the Indiana Board of State Charities gives the following causes of distress in the families aided by public relief officers in Indiana for the year 1914: sickness or burial, transportation, lack of employment, old age, widowhood or non-support, insanity and idiocy, other physical defects (blind, deaf, or crippled):

In a study of three hundred and sixty-four families receiving public outdoor relief in Missouri<sup>2</sup> the following disabilities were noted: old age, chronic physical disability, temporary physical disability, mental disability, intemperance, immorality, widowhood, desertion, non-support.

In 1913 the State Charities Aid Association made an inquiry into the administration of public outdoor relief in Dutchess County, New York. Some of the "obvious problems" found within the one hundred and six families specially studied were: sickness, tuberculosis, feeble-mindedness, probable feeble-mindedness, backward children, insanity, alcoholism, low mental capacity, shiftlessness, immorality.

An examination of the reports of public relief officials will reveal similar lists of disabilities, usually classified as causes of distress, covering much the same items. However unsatisfactory they may be as classifications of causes of distress, they are significant because they indicate in dependent families serious disabilities too obvious to be ignored. What part do these disabilities play in dependence? Obviously, a large part. When desertion, sickness, unemployment, feeble-mindedness, intemperance, and shiftlessness, as used in these lists, apply to the man of the family, they usually have a direct effect upon the income. When they apply either to the man or to the woman, they almost certainly imply the serious disorganization of family life, even though the income is not entirely cut off. Almost any one of them is

<sup>1</sup> McLean, *The Charities of Springfield, Illinois*, p. 141.

<sup>2</sup> Warfield, *Outdoor Relief in Missouri*, p. 68.

a sufficient handicap to self-maintenance, and must be removed before complete self-maintenance is possible.

Under the old conception of the task of outdoor relief, their removal is a problem for the family itself, with the assistance of meagre material relief while they are solving it. In many instances this tiding-over is all that is required. In most instances, however, these disabilities have already proved too much for the intelligence and resourcefulness of the family and have led directly to their application for public relief. What is needed is not primarily material relief, but some service directed towards desertion, sickness, unemployment, feeble-mindedness, intemperance, or shiftlessness as the case may be. As long as these disabilities are present, tiding-over is an empty formula, for there is no landing place in sight where the tiding-over process may come to an end.

These same disabilities also nullify the legal provision that relief shall be temporary. While they do not necessarily indicate permanent need for relief, relief is nevertheless likely to be needed as long as they are present. As a matter of fact, as studies of public relief show, cases of temporary need tend to become permanent, or as permanent as the relief given. If relief is to be temporary, it must in most cases be accompanied by some action which will remove these disabilities and any other handicaps to the ability of these families to finance and manage their own affairs. The presence of disabilities requiring special treatment is the first factor in the problem of dependence which has a bearing upon the administrative basis of public outdoor relief.

*Dependence in terms of psychology.* The analysis of dependence reveals another factor of equal importance. This is the attitude of the dependent person towards his own situation and towards the assistance he is receiving. Dependence is the result of failure—failure to reach society's accepted standard of self-maintenance. Those who are supported entirely or in part by public outdoor relief are for the time being unable to provide for their necessities as other people are expected to provide for theirs. Their material needs are not different from those of other persons. They can be provided for through much the same channels. Current social standards demand that the members of society meet most of these needs at their own expense. Those whose needs are provided for at the expense of the community have failed to reach this standard, although they may in other particulars

be no different from those who are more successful. This failure, of which dependence is a manifestation, may be caused by disabilities which will yield to treatment as we have seen. From this point of view its significance is largely administrative—suggesting the need for certain action by the relief official, or some large preventive movement.

The experience of failure, however, whatever its cause, has psychological significance for the individual concerned. It forces recognition of limitations. It exposes these limitations, which men ordinarily struggle to keep hidden, to more or less public observation. It involves a sense of dependence upon others for the necessities of life which it is the common ambition of men to provide for themselves. With some persons the experience of failure is the first step towards success. With those whose intellectual and economic resources are limited it may have the opposite effect; and this effect is not likely to be lessened when after such a failure the income which other men earn is provided by relief. This is not an indictment, but an analysis of human nature. To be free from the responsibility for self-maintenance has a definite effect both upon the disposition and upon the capacity for self-maintenance, as those persons know who have been coddled through an illness like tuberculosis, who have experienced a long period of enforced idleness at a time of industrial depression or who have lived upon inherited wealth.

The mental attitude of the recipient is significant from still another point of view. Destitution as we have seen is usually accompanied by serious disabilities. To get out of this condition calls for a large measure of intelligence, resourcefulness, and determination. It is a task for the resolute, for those who recognize opportunities and know how to take advantage of them. In other words, it requires qualities which the destitute usually do not have, and it is chiefly because they do not have them in sufficient measure that they are destitute. Furthermore, if we consider the effect upon the human spirit of the disabilities which are generally listed in connection with dependence, it becomes evident that the spiritual burdens of life are doubled for the poor. Widowhood, as an item in a list of the causes of distress, may mean only the total loss of an income through the death of a breadwinner. The social worker, however, interested in the conservation and development of the power of self-maintenance in his applicants, sees in it also loss of companionship and single-handed responsibility for budget making,

discipline of children, the planning of the future of the family, and all the other vital problems of family life upon which two heads are better than one.

Intemperance, in its narrowest implication, suggests unsteady income and the good old adjective "unworthy." To a discerning social worker it may also suggest a desire to reform in a man who finds his own will power inadequate for the task. It may suggest also a wife whose spirit has become so broken by the handicap of an inebriate husband that she has lost her grip entirely. Unemployment suggests a lack of income, and in normal times possibly also an aversion to work. It may also mean the shattered courage to which unsuccessful efforts to find work inevitably lead. The worker in this field has not faced his problem squarely until he has recognized behind any application for relief a state of mind and spirit which is quite as much a factor in dependence as fluctuation in income. There are some unhealthy states of mind which are improved by receiving relief; there are probably more that are caused by receiving relief; and there are few, if any, that receive the maximum of helpfulness from relief alone.

*Disabilities and psychology as the administrative basis.* Our analysis has revealed two important factors in dependence: If the purpose of our public outdoor relief is to assist families out of dependence, as is implied when we prescribe by law that such relief shall be temporary, these two factors give us the proper administrative basis. A public department for caring for the poor in their own homes should not be organized primarily for the giving of relief. This should be only an incident, though an essential one, in its program. It should be organized so as to secure for its applicants whatever treatment is needed for their disabilities and for the conservation and development of their own powers of self-maintenance.

This is in no sense a new conception. Heretofore, however, we have accepted relief as the program, the basic thing, and have tried to graft upon it an administration which would recognize this conception of its possibilities. The time has come when we should be ready to discard relief absolutely as a unit of organization, substituting for it social treatment, in which relief has a place. What does this mean in terms of the analysis of dependence which we have made?

*The treatment of disabilities.* The disabilities which accompany dependence are in general susceptible to treatment.



Desertion is now a punishable offense almost everywhere in the United States. In some places the legal provisions covering desertion go beyond punishment, and include some interest in steadying the man through probation, and in family reconciliations through bureaus and courts of domestic relations. Every case of desertion should be taken up for as thorough treatment as it needs. Whatever this may involve in securing the co-operation of the wife in prosecuting, in finding the man, or in seeing the process through should be undertaken by the public relief official unless there is some other designated official who should and will carry the responsibility.

Unemployment has been recognized by many states as too big a problem for the resources of the unemployed man himself; and they have undertaken to help him with it through the establishment of public employment bureaus. Unemployment, however, is not always met by offering the man a job. Frequently he must be fitted for the job, or the job must be chosen with reference to his limitations. It may be a question how far a public employment bureau can go in such matters; but the public relief official who recognizes unemployment as the root of his applicant's difficulty must go as far as human resources permit.

Illness is probably the most conspicuous factor in dependence. Facilities for dealing with it in its various forms are all but universal. Although they are sometimes not well organized and co-ordinated, it is probably true that some treatment is available for every case of sickness. It does not appear from a study of the activities of public relief departments that they very generally assume responsibility for securing such treatment. In some places city physicians undertake the treatment of the destitute sick upon orders from the public relief officer; but the latter ordinarily does not order it unless it is applied for or some serious illness is discovered in a family receiving relief. This attitude contrasts sharply with the practice of medical inspection of all school children and the growing tendency in industrial establishments to undertake periodical physical examinations of all employes in the interest of efficiency. Sickness is a handicap to self-maintenance. It means loss of income and impaired efficiency for all the responsibilities of life. Proper medical attention should be arranged for every family which asks for public assistance, whether ill-health is obvious or not.

Whatever the disabilities are which have led to the loss of income or to the application for relief, they should be the first point of attack. Whatever facilities the community affords for treating them should be brought into co-operation by the public relief officer. This is as true of intemperance, feeble-mindedness, and others as it is of desertion, unemployment, and sickness. Relief giving is futile otherwise, although it is frequently necessary at the same time. In a well-organized department for the treatment of the poor, this will be the first administrative responsibility.

*Personal influence in the treatment of dependence.* The attitude of the recipient of relief towards his own situation and towards the relief which he is receiving creates an equally definite administrative problem. The development of resourcefulness and the spirit of self-dependence, or their conservation when they are threatened by adversity, are fundamental tasks for the public relief official. Family dependence is frequently a matter of the unwise use of resources. This may spring from ignorance, from a wrong set of values, from shiftlessness, or from a broken spirit. Whatever the cause, successful treatment of such families must include the re-education of habit and emphasis upon right standards—through personal influence.

Responsibility for this phase of the task is not necessarily discharged when specific disabilities have been successfully treated. Too often it is assumed that a family whose wage-earners are employed, whose ill-health has had successful medical treatment, whose truant children through fear of the attendance officer are regular in school, whose babies through the watchful eye of the nurse at the milk station have for weeks been properly fed, whose deserting husband and father has been restored to them with a threat from the court which for the time being keeps him up to his responsibilities—is a family rehabilitated. Such hopeful developments, however, may all have been effected by outside pressure which leaves untouched the family psychology which made them necessary.

This is a problem in personal influence for which there is no formula. The fruits of personal influence in a worker are intangible but vital. They are worth more to the process of rehabilitation than any quantity of relief or the removal of any number of objective disabilities. In a well-organized department for the treatment of the poor, they represent the second administrative responsibility.

*Equipment for good administration.* It is evident that administration of this sort of a public program calls for well-qualified officials. At present we tend to discuss efficiency in the administration of public outdoor relief in terms of honesty, an adequate reporting system, supervision by competent authority, and (in a few places) adequate investigation of cases. It must be admitted that in most American communities the attainment of even these negative standards of efficiency would represent almost incredible advance. It is high time, however, that we face squarely the lessons of experience. Destitution does not present primarily a relief problem, but a problem in social treatment. Social treatment has many instruments of which relief is only one. We are dealing with human lives whose normal motive power has broken down. It is not a task for those who are chosen as most of our public relief officials are. There are, to be sure, many such officials who are doing the finest kind of work. They are demonstrating the soundness of every suggestion in this paper. As illustrations, let me refer to Denver, Colorado, and to Westchester County, New York. That we have such officials in a few places is sheer luck; for almost nowhere have we recognized the true administrative basis of relief, and stipulated by law the qualifications of those whom we put in charge of it.

It is not within the scope of this paper to discuss these qualifications in detail. They include the ability to collect and interpret relevant information, to analyze disabilities, to make intelligent choice between the alternatives in treatment which trained thinking will develop, and skill in the art of personal influence—all of those qualifications, in other words, which are implied in social diagnosis and treatment. It would be idle to claim that either social diagnosis or the art of treatment had reached the stage of development which insures their successful use. Our knowledge of the effect of disabilities upon human beings is still meagre; our tests of the efficiency and the character of the individual are still crude; and our resources for good work are still inadequate. The development of all three is necessary for anything like precision in social treatment. And yet, despite the tentative state of their development, social diagnosis and treatment have proved their possibilities, even in the field of public outdoor relief.

90. ALMSHOUSES: EXISTING CONDITIONS AND NEEDED REFORMS<sup>1</sup>

The statements that follow are based on an inquiry sent to the secretaries of the state board of charities of each state, the reports of the United States Census Bureau, and on personal observation. Where percentages are mentioned and the source is not given, it should be assumed that these came from the reports of the state boards of charities.

In almshouses as in other institutions work for inmates keeps them out of mischief, insures discipline, helps time to pass more pleasantly, and makes their stay at the institution more agreeable. On the other hand, idleness begets viciousness, the inmates are more unmanageable, whereas efficiency in the institution is reduced to a minimum. Despite this, from information received from secretaries of state boards of charities all over the country, hardly twenty-five per cent of the inmates are given work of any sort. True in almshouses a large proportion of the inmates are old, many are very feeble, and not a few are wholly incapacitated for work of any sort, yet there is no question but some work can be given to many who are now unemployed. Alexander Johnson says:

There is no more important part of almshouse administration than the employment of inmates. While their labor in many cases has little cash value, it is none the less valuable for other reasons. It may be stated as a rule to which there is no exception that every inmate except the bedridden ones should have some employment during a part of the day, and the more fully the usual hours are occupied, the better.

Surely something is radically wrong with almshouse management when reports show three-quarters of these institutions providing no means of supplying this natural desire.

*Unregulated admission.* One of the greatest evils prevailing in our almshouse-systems, however, appears to be the indiscriminate admission of applicants. For instance, reports from every state in the Union show that almost fifty per cent of the almshouses admit tramps. So far as could be learned, New York and Massachusetts are the only states that have prohibited the admission of this class. In other states

<sup>1</sup> By Murray A. Auerbach, Secretary of the United Charities Association, Little Rock, Arkansas. From *Proceedings of the National Conference of Charities and Correction*, 1914, pp. 465-473.



it is left to each almshouse to do as it thinks best. In California, tramps gain easy admission to all such institutions and the same applies to Illinois in the winter. In Connecticut, Missouri, and Ohio it applies to about one-half of the almshouses. These few states are mentioned because it brings out the fact that this grave evil is found existing even in states considered socially up-to-date, Illinois, Missouri, and Ohio especially having some of the best types of institutions found in this country. The tramp in the almshouse should never be sanctioned. He is a social problem to be dealt with by other social agencies organized and equipped for the purpose. When we consider also that in almost eighty per cent of our poorhouses, according to the reports received, there is insufficient regulation regarding the coming and going of inmates the enormity of this evil is more readily understood.

The tramp also by being allowed to come and go at will helps to spread disease to other communities. For he can very easily contract disease in the almshouse and spread it to every village he passes through. This then brings the almshouse in closer relationship to every town and hamlet in the country. But, aside from the danger to other communities, think of the manner in which those who belong in the almshouse are exposed to disease. For it is not the exceptional place that disregards the need for segregating contagious diseases. Only forty per cent of our almshouses—less than one-half—make any provision for this. A growing sentiment due perhaps to the activities of anti-tuberculosis societies or other social agencies has brought about some care for the tubercular, for in many places though cancer and syphilis are given no attention whatever, those afflicted with tuberculosis are given either a separate ward or a tent in the open air. But in comparatively few is proper medical attention given those afflicted with other ailments. Most of the institutions are small and cannot afford a physician on full time nor is there room for separate wards. The physician is usually hired not for his interest or ability but because he is cheapest. The work is let to the lowest bidder and in some places pays no more than \$75 or \$100 a year, the physician to come once a week and sometimes simply to be ready for call.

Medical records, examinations before admission, or during stay, are unknown. And the superintendent who is either paid so much per capita or who is the lowest bidder or who is paid a small annual stipend from which he must pay the expense of running the institu-

tion, is often ignorant of almshouse management, conscientious though he may possibly be.

Even in many of the larger almshouses where the superintendent is better paid is this true. For in very few instances are superintendents chosen for knowledge or ability. In this connection it may be well to mention that the secretary of the Board of Public Charities of North Carolina recommends a trained nurse to be present when new buildings are opened, and to remain several months in order to teach the keepers how to keep the place in a sanitary condition. On the other hand the secretary of one of our densely populated states, Ohio, reports, "Very little attention is given to the prevention of infectious or contagious diseases and facilities for handling such are very inadequate." Surely we cannot blame the respectable poor for refusing the shelter of the almshouse.

*Separation of sexes.* This also leads to the necessity for a strict separation of sexes not only in the almshouses but on the grounds. Composed as the almshouse is, of all sorts and conditions of human beings, there should be absolutely no mingling of sexes in any part of the institution. In almost every large almshouse this separation is carried out, and though the reports showed that eighty per cent of these institutions have rules for sex separation in many places, especially the smaller ones, this was not made complete enough. The United States Census report of 1910 shows eleven hundred and seven illegitimate babies born in the almshouse. Of course, a considerable number of the mothers of these children were admitted as lying-in cases, but some of these mothers had lived at the institutions for some time, and in at least twenty-eight instances the fathers of these illegitimate children were inmates at the almshouses at which they were born. The secretary of the state board of charities in one of our largest states probably expressed correctly the situation existing all over this country when he said in answer to an inquiry, "In all of our almshouses there is an effort toward separation of sexes. The type of construction of some of the older buildings makes this exceedingly difficult." This is, therefore, a good argument for the consideration of all features of almshouse management when the plans for buildings are submitted. It also suggests a potent reason for the doing away with the institutions that continue to perpetuate these almost unbelievable conditions. Far better would it be to destroy

immediately the almshouses that help to weaken the human race than to provide such meagre shelter as they afford to the aged and infirm.

Perhaps the most pathetic feature of old age poverty is that of the old couple who after many years of congeniality find themselves without shelter or care. The reward for former service to the community, meted out by the state, is generally the poorhouse—and separation. In most of the almshouses there is no provision made for the old couple. To be consigned to the poorhouse means to be separated till death joins them together in the hereafter. Of a number of secretaries of charity organization societies who were interviewed, all stated emphatically that respectable old couples are not sent by their organizations to the almshouse where separation prevails because of the hardship and anguish it would entail. This is indeed a sad commentary on the entire system. Instead of making the last resting place in life a welcome home for the aged and infirm it is instead viewed with dread by the poor and the social worker alike. The charity organization secretaries may have seen the almshouse in only a limited fashion, yet their attitude is significant.

While there are a number of almshouses that make provision for old couples the best type, perhaps, is the New York City Farm Colony on Staten Island. New York has three almshouses, each institution receiving its inmates according to their social status. The better kind, that is, those who have been rendered public charges through no fault of their own, and those who have led exemplary lives, are sent to the farm colony, where the old couples are kept together in little cottages offering them all the comforts of home. Not alone does the Farm Colony allow each couple a room for themselves, but they can take to their room furniture and pictures which have been made dear by association, and which add cheer to their weary lives.

The inmates of this home are allowed to work on the place for such time as their strength permits. The superintendent's report for 1909 says: "The old men find great interest in 'our vegetables.' Enough are raised to supply the colony and ship two-thirds of the crop to other institutions in the department. Some help is hired." Bear this in mind and reflect that only a little over forty per cent of tillable land belonging to almshouses all over the country is utilized. The Farm Colony in 1909 alone raised \$10,602.93 of farm products, market value, at a cost of \$6,380.32, or a profit to the institution of \$4,222.61.



*Present almshouses mistaken charities.* The almshouse as conducted today is a mistaken charity. It is in many instances a charity that hurts rather than helps. It is a charity that is destructive rather than constructive. We have just considered percentages. Let us now consider actual figures that will show how the almshouse is continually creating problems for the next generation to solve.

Although some few states have passed laws against the keeping of children in the almshouse, the United States Census report shows that in 1910 there were harbored in these institutions thirty-two hundred and seventy-eight children up to nineteen years of age. The census report does not state whether this includes feeble-minded children, but assuming that it does, there are many grades of feeble-mindedness that are improvable and which are not improved by the almshouse. Also it does not change the status of the normal children involved.

While we are concerned with all children, the greatest danger lies with the girls. Of these there were fourteen hundred and twenty in almshouses in 1910. There are no figures to show how many years these children spent with their associates in the almshouse, but we do know that one hundred and thirteen children from five to nineteen years of age had spent all their days in the institution and that sixty-two females from five to twenty-four years of age knew no other home than the poorhouse.

*Mental defectives.* Few almshouses are equipped to care for mental defectives, especially the feeble-minded. Some of the larger institutions are provided with some facilities, but the smaller the institution, the less prepared is it to care for the varied cases that are admitted. The danger of keeping the feeble-minded in the almshouse is a particularly glaring one. Says Alexander Johnson :

It would be easy to give hundreds of instances of abuse, usually sexual, of feeble-minded persons in almshouses. It is the common understanding that few or none of the women of child-bearing age escape maternity, and that their children, usually of strong-minded fathers, ordinarily inherit the mother's psychic defect in one of its various forms. The conclusion is inevitable—that the feeble-minded woman of child-bearing age is not in her proper place in an almshouse; and if perforce, she is kept there, in default of better accommodation, then the superintendent and matrons and governing board, too, are under the strongest obligation to protect her against abuse and the state against her possible progeny.



Let us again revert to the figures of the United States Census Bureau. In 1910 there were in the almshouses of this country 2857 insane, 9813 feeble-minded, and 1289 epileptics. Were we to add to this the 540 deaf and 2427 blind, we have a total of 16,926. Also add to this the 3278 children above referred to and it gives a grand total of 20,204 persons in almshouses but who did not properly belong there. These classes should not be cared for at the almshouse. They belong in institutions specially equipped for the specialized treatment the cases demand.

*Political abuse.* For the causes of almshouse evils, we must not blame the superintendent altogether—for he often acts according to his best knowledge, but the entire system must be condemned. Missouri may be taken as an average state. It has densely populated centers and sparsely inhabited districts. It contains some of the largest cities and the smallest hamlets. It has some of the best institutions and some of the poorest. Its almshouses rank among the best and among the worst. Therefore, what is true of Missouri may be true in a greater or lesser measure of other states. Through the kindness of the secretary of the State Board of Charities and Corrections we have some figures that throw interesting light on the subject. The average time of service of the superintendent is three and a half years. The average length of service for seventeen superintendents was eleven years; and for eighty-one, one and eight-ninths years. Here are human beings consigned to the care of, in many cases, ignorant, illiterate persons who have shown merit only in producing a few votes. Human beings experimented with by politicians to further their own political careers. The almshouse becomes not a home for the aged and infirm, but a place of torture for the respectable poor. Under the political system even if a man who is conscientious is appointed, he is sorely handicapped. He may study almshouse management with a view to instituting many reforms that will make the place more habitable, but before he is able to carry his plans into effect a new election takes place and he is succeeded by a new appointee who knowing nothing of the almshouse must begin all over again only in time to be succeeded by another. Does this sound like an exaggeration when eighty-one of ninety-eight superintendents in Missouri served on an average of one and eight-ninths years?

Another most important feature to consider is the compensation of the superintendent. Let us take Missouri again for an illustration. The ten best paid superintendents average \$99 a month; for sixty-six the average is \$55.60; and for fifty-five, the average salary is \$47.53. Imagine getting expert service for less than \$50 a month. Yet all defectives, physical wrecks, the dissolute, and the sensitive are thrown together into one group, and the problems emanating from this group are left to a poorly paid executive with no previous experience, ability, or adaptability. Social workers today boast of preventing problems, yet here are they created in geometrical proportion to the solution. Here are selfish communities saving a few dollars now but sacrificing the health and happiness of human beings and creating huge economic and social losses for the country at large and for succeeding generations.

*Suggested improvements.* After considering the faults of existing almshouses let us now observe conditions as they should be. In the first place, there is something in a name, and the name "almshouse" or "poorhouse" through its many years of usage and abuse has attracted to it a stigma that can never be eradicated so long as the names continue. After all, the institution is intended to be a "home for the aged and infirm," which would be quite an appropriate name. In some places the name of some person or locality is adopted as the William C. Graves Home in Illinois, or the Bay View Home in Baltimore, both excellent means of doing away with the objectionable name "poorhouse."

The ideal system would include the cottage plan and a close classification of inmates upon their entry to the institution, considering their past lives and the places held by them in the communities from which they came. Those who are of higher moral and social standard should be kept separate from those of lower standards. This may jar the sense of equality but it is decidedly unfair to take old people who have led exemplary lives and ask them to choose as bed fellows and general companions victims of drunkenness and debauchery.

It is not easy of course to effect the separation in a smaller institution, but the fact that the smaller institutions cannot afford the expense of proper conduct is the best argument for their being wiped out. The almshouse does not serve its purpose if it does not help to lessen the number and complexity of social problems for the future.

This study has brought out one prominent fact—that the best conditions are found in the larger institutions and the worse affairs are found in the numerous smaller institutions that dot the country.

The small institutions, by the way, far outnumber the large ones. In 1910, there were a total of twenty-three hundred and ninety-six almshouses in the United States of which the following classification was made:

Population 400 and over . . . . .	26
Population 300 to 400 . . . . .	9
Population 200 to 300 . . . . .	26
Population 100 to 200 . . . . .	80
Population 10 and under . . . . .	1005

A little more than one-half of one per cent of the almshouses in this country have a population of one hundred or more while forty-two per cent have a population of ten or less. Surely this is sufficient evidence in view of the facts already brought out that there is going on continually a great economic waste at a fearful social cost.

What is needed most is the application of organized charities principles to almshouse management. A social worker keen to his responsibilities to the inmates and the public must be placed in charge, and all cases should be given study, investigation, and care. If this were done, the almshouse could be made a source of great help to the aged poor by locating relatives who may be financially able to care for the applicant or inmate, and by placing the responsibility where it belongs. Indeed, by interesting the relatives intelligently a family may be reunited, and the applicant reap the benefit of home life.

The almshouse can be made the most useful of social institutions, if each locality would but awaken to its social duty and its responsibility to posterity.

## 91. LOCAL VERSUS CENTRALIZED ADMINISTRATION<sup>1</sup>

Wherever in the operation of systems of public relief of the poor the responsibility for development and execution is allowed to rest with small local units of government, there will be found an excessive

<sup>1</sup> From *The History of Public Poor Relief in Massachusetts* (pp. 189-191), by Robert W. Kelso, Executive Secretary of the Boston Council of Social Agencies. Copyright, 1922, by R. W. Kelso. Houghton Mifflin Company, Boston.

degree of activity on the part of officials aimed solely at the satisfaction of local self-interest. Wherever the responsibility for such relief has been removed from the small local community, there will be discovered a dangerous tendency in legislation which seeks to redistribute the wealth of the community by taking from the thrifty citizen who has, and giving to him who has not. It is a dilemma.

When the price of independence and the shame of losing social place, however lowly, are removed from the receipt of public bounty, the inevitable result, born of human nature itself, is a clamor for aid—a demand as of right—a shameless scramble for that which should come only by the toil and initiative of the citizen himself. To remove the burden of relieving the poor from the small neighborhood circle in which each inhabitant and his daily affairs are known to every one else is to screen him from the eye of his mentors and to free him from that fear of ridicule which is the greatest spur to self-support.

To administer poor relief by an authority beyond the horizon of such small neighborhoods, out of funds not directly extracted from the pockets of its residents, is to give this impersonal cast to relief which encourages pauperism. The centralization of administration in the State Government is a plan which is pregnant with the dangers of pauperization. It is unsafe.

How, then, shall poor relief be administered? In Massachusetts there are three hundred and fifty-four cities and towns. In spite of long-continued and gradual absorption of relief functions by the State Government, each local community remains at this day an independent sovereignty for purposes of relieving the poor. The history of the past three hundred years of poor relief by these municipalities is a record of endless bickering and sharp practice, indulged in by officials of small outlook, conscientiously defending their towns from public burdens. To the social worker engaged in private charity the term "overseer of the poor" is a byword for inadequate, unthinking doles. In the overseer's hands relief has seldom been adequate to the need; and rarely has it betrayed a constructive plan looking to the return of the pauper to self-support. Relieving the town's poor has in all decades been a crude piece of work. If State administration is unsafe, independent local administration does not function, and is unsound.

Students of social welfare have variously asserted that public outdoor relief can never be administered without pauperization and there-



fore should be abolished; that the State should perform all public relief functions, excluding the counties and towns, because the centralized plan affords a comprehensive system; that the State should have no share in it, because problems of poverty, like problems of crime, are local and must be locally met. None of these proposals would provide the solution. The evolution of the Massachusetts system is itself the demonstration of the right method. Essentially the system now in operation decentralizes the administration of public poor relief by leaving it to the smallest unit of government, the town; and centralizes the development of the right method—the social programme—in the State Government. This, then, is the answer: centralized policy; decentralized administration.

## CHAPTER XXV

### RELATION BETWEEN PUBLIC AND PRIVATE AGENCIES

#### 92. THE RELATION BETWEEN PHILANTHROPY AND STATE OR MUNICIPAL ACTION<sup>1</sup>

There seems, on first thought, nothing in common between the impulsive response of the heart to the appeal for charity and the coldly ordered activity of a government department. But in a densely peopled community, whether of the Old World or the New, with all the complications of city life, philanthropy itself becomes complicated, and charity perforce organized.

Thus we see; alike in the cities of the United States and in those of Europe, the up-growth of great philanthropic corporations. On the other hand, the government itself becomes differentiated in structure as in function, and learns how to make use of volunteers. Thus, we find on the one hand, an extensive substitution for the personal distribution of alms, of independent corporations and societies administering, through salaried officials, funds voluntarily subscribed for the purpose; and, on the other, a great and growing use, as part of the governmental machinery, central or local, of the unpaid and voluntarily serving amateur. We see, in fact, the paradox that a large and growing part of the activities of the voluntary agencies in great cities are exercised, not by volunteers, but by a paid bureaucracy; whilst over an extensive and steadily increasing field the operations of the local or central government are carried on, not by officials, but by unprofessional volunteers. We have been groping our way to a clear and rational theory as to the proper relationship between the government, on the one hand, whether national or municipal, and the voluntary agency on the other.

<sup>1</sup> By Sidney Webb, LL.B., Professor of Public Administration in the University of London. From "The Extension Ladder Theory of the Relation between Voluntary Philanthropy and State or Municipal Action," the *Survey*, Vol. XXXI, No. 23 (1914), pp. 703-707.

The idea that there ought to be any deliberate organization of our charitable feelings, or that there can be any systematic relation between individual philanthropy and the action of the state, is a comparatively modern one. There are still many good people among us who instinctively resent any discouragement of the personal impulse to give alms or to perform "good works" as a religious duty by which we "acquire merit" or do glory unto God, quite irrespective of the effect really produced upon the recipients and beneficiaries. To them, at least in theory, personal charity is everything.

On the other hand, there are still amongst us representatives of the unspoken views of the "early Victorian" economists, who regard every kind of philanthropic action as a hideous mistake, calculated to undermine the independence and lessen the energy of the poor, and even to promote the survival of the unfit. To them, personal charity and government provision are, at least in theory, alike anathema.

Leaving aside, for the moment, these extremists on either side, let us deal simply with the facts. We have in the field both voluntary philanthropy and government action, and therefore, necessarily, some relation between them. What ought it to be?

To determine this, we must first have clearly in our minds the specific advantages and actual potentialities of each of these instruments. In the United Kingdom of today, and I presume also in the United States, voluntary agencies are superior to the public authorities in three main features: in invention and initiative, in their ability to lavish unstinted care on particular cases, and in the intensity and variety of the religious influences that they can bring to bear on personal character.

In the domain of social pathology, we are, as yet, only groping in the dark and experimenting. The opportunity and capacity for originating new developments in the treatment of individuals lie principally with the voluntary agency. The public authority is bound down by law, as well as limited by the disinclination of the local taxpayers to expend money in unfamiliar ways. "We must not experiment with the public money" is perpetually an effective plea. All sorts of prejudices and dislikes amongst the elected aldermen or councillors have to be considered. In a voluntary agency, a person with new ideas, or a group of enthusiasts for new methods of treatment of particular cases, can put new devices to the test of experiment.

Looking back on the social history of the last hundred and fifty years, we must recognize that nearly all the successful developments in the United Kingdom as in the United States, in the way of collective provision for any class, have been preceded and rendered practicable by private experiments. This is true of practically our whole educational organization, from the kindergarten to the university, from the primary school to the reformatory, from cookery instruction and manual training and special schools for the defective to university extension courses, and vacation schools.

The same sort of philanthropic experimenting with voluntary organization and private funds has preceded, and is still preceding, the official organization of the public health service, from paving and cleansing and lighting the streets to the provision of a constant water supply, from isolation hospitals to tuberculin dispensaries, from health visiting and schools for mothers, to school clinics and convalescent homes. And there is still much to discover and to learn. The future hides within it, we may hope and assume, as much as we have found in the past. It is the first, the highest, and in many ways the most useful duty of voluntary agencies to perform this indispensable service of invention and initiative and perpetual experimenting in the unknown.

The second specific feature of the voluntary agency, and one which gives it an enormous advantage in its appropriate sphere, is that the volunteer worker or the voluntary institution can, if desired, lavish a wholly disproportionate amount of care on a difficult case or a difficult class of cases. The salaried teachers or inspectors of a public authority must "do equal justice to all their clients"; the unpaid volunteer can spend days and months on one particular person or family that may seem to call for more concentration and thought and feeling than the ordinary run of cases. A beneficent patron may spend his whole capital on establishing one particular institution of a special type, perhaps for a class of persons statistically of no great importance to the community. And as in the case of experiment and invention, though volunteers and voluntary agencies may fail in ninety-nine cases, the hundredth case which turns out to be a success may be of untold importance to the community.

Finally, we have the significant fact that it is only through volunteers and voluntary agencies, that, in England and I suppose also in the new England, we can bring to bear, in the treatment of any in-



dividual or class of individuals, the specific religious atmosphere. It may be that this is not an inherent distinction between voluntary agencies and state action. It may be that in some communities, in some phases of public opinion, we might have the public authority providing an intensely religious atmosphere for those whom it succours or treats.

But, given the strong feeling against any preference by the state for one denomination over another, and the strong objection to submitting any person to the influence of a creed with which he may not agree, or with which his parents may not agree, or with which the taxpayers who bear the cost may not agree, it is practically impossible to bring to bear on the individual treated in a public institution those potent reformatory influences which are evoked chiefly, and perhaps exclusively, in an atmosphere of fervent spiritual faith of a specific religious denomination.

As to the real efficacy of such spiritual influences opinions will differ. We may recognize that they are not appropriate for all cases, nor for all kinds of treatment. But it would be both blind and intolerant to deny their value, and even their extraordinary potency, in some of the cases, and along with some of the kinds of treatment to which they are appropriate. None but fanatics would object to making use, under all due safeguards, of voluntary agencies which offer to provide an apparently efficacious treatment, with a definitely religious atmosphere, at less cost than that at which the state can itself do the work, for those sufferers who already belong to the particular denomination in question, or who, being adult, deliberately prefer such an institution to that which the state provides.

There is, indeed, every reason to believe that without some such arrangement, we cannot, in fact, do what is best for the fallen woman or the inchoately criminal child—perhaps also for some types of the congenitally feeble-minded, the habitual inebriate, and the "work shy."

The three specific advantages of voluntary agencies are accompanied by equal specific defects from which public authorities are free.

The first of these drawbacks is the unfair incidence of the cost of voluntary philanthropy. It must be stigmatized as a distinct disadvantage that those who actually bear the cost of these agencies are few and far between, and the bulk of citizens are excluded from a charge to which all should contribute according to their ability. This

characteristic incidence of the cost of all private philanthropy amounts, in effect, to a penalty on the good and conscientious; and is, at the same time, equivalent to a bounty on those who are selfish and without public spirit.

Moreover, the financial basis of voluntary institutions is not only inequitable, but the revenue thus obtained is extraordinarily fitful, and its collection absorbs the time and energy of the organizers to an altogether extravagant extent. It has been said that half the time of the promoters and managers of the best and most approved voluntary institutions is absorbed in raising subscriptions to support them. It is this which makes the voluntary hospitals of the United Kingdom the most extravagantly wasteful of funds and energy of all the departments of our common life.

The second great drawback of voluntary agencies springs partly from this financial uncertainty, but partly also from their sporadic and, so to speak, accidental growth; it is practically impossible for voluntary agencies to perform any task, or execute any service, completely and continuously.

The most picturesque example of this lack of completeness and continuity would have been discovered by a citizen of London in the middle of the eighteenth century. In those days it was left practically to each individual, or to voluntary associations of individuals, to pave, and light, and cleanse the streets. The service was naturally very discontinuous. Here would be a patch of stone cobbles, then a heap of mud, following that a deep hole, and possibly a plank or some cinders as an agreeable alternative. One house would have a lantern, and the next ten would be without them. The watchmen were long limited practically to such "select" quarters as St. James's Square, where the inhabitants decided that they had valuable property to protect.

It was, in fact, the impracticability of getting any complete and continuous action from voluntary agencies that led to the first great municipal enterprise of paving, lighting, and watching the streets. The provision of schools for poor children was long the favourite service of private philanthropy. But such schools failed altogether to cover the whole ground; and it was only the desire to give complete and continuous education to all children that led to the establishment of the local education authority, with its compulsory rate and its com-

pulsory attendance. The local health authority had to be called in to supply the deficiency in hospitals, as soon as it was considered necessary to have the means of isolating all infectious cases everywhere.

Whenever it is considered necessary, with regard to any particular service, any particular class of patients, or any particular treatment, that it should be extended to every case, or to every part of the country, or for the whole period of the contingency, the community finds it impossible to depend on voluntary agencies. The public authority alone can insure a provision that is universal, ubiquitous, complete, or continuous.

Closely connected with the inability of the voluntary agency to give complete and continuous treatment to the cases that it purports to undertake is its inability to "compel them to come in"; its powerlessness to enforce submission to treatment or to the conditions of efficacious treatment; and, withal, its helplessness in the way of prevention. This lack of power in the voluntary agency, as contrasted with the public authority, the inability to alter the social environment, to change the industrial conditions, to arrest the course of evil influences, to ward off physical calamities, at once disqualifies the voluntary agency for the supremely important task of preventing the occurrence of the destitution that springs from adverse environment. But the same disability cripples the voluntary agency in its action on the individual.

The most disastrous effect, from the standpoint of personal character of the volunteer and the voluntary agency, is that treatment is not and cannot be accompanied with any enforcement of obligation. The voluntary agency stands open to those who choose to accept it, and equally open to those who choose to leave it. It is perpetually drifting, whatever the intention of its promoters, into a curious kind of subsidy to the wayward impulses of those who are in need.

A sick person may go from dispensary to dispensary, from hospital to hospital, taking the advice, or swallowing the medicine that he gets, with or without any proper maintenance, with or without any hygienic lodging, even pursuing a course of life bound to result in an aggravation of the disease which he professes to wish to get rid of.

All the voluntary charities for children, however good their effect may be on the child, are necessarily unconnected with any enforcement of parental responsibility; sometimes, even, a demoralizing system of

bribes has to be adopted to induce the parents of the children to let them enter in. It is extraordinary that persons who are really concerned about the maintenance of parental responsibility should prefer to see an organized system of providing school dinners for the hungry at the expense of private philanthropy—which cannot by any possibility be connected with the enforcement of parental responsibility on merely negligent or drunken parents—instead of the provision being entrusted to the local education authority, which can and might make it an effective instrument for raising the standard of child nurture and compelling all parents who could afford it to keep their children up to the higher standard.

When we leave the ordinary normal citizen and his family, and pass to a consideration of the mentally defective, it becomes clear that all treatment, however benevolent, if it is to attain its ends, must necessarily be accompanied by a certain disciplinary supervision and enforced control, involving powers which are not easily granted to voluntary agencies. Wherever the case requires compulsory removal, segregation, detention, or control, the public authority must intervene as responsible for safeguarding the liberty of the subject.

Once we have realized the characteristic qualities and defects of voluntary agencies on the one hand, and public authorities on the other, we are in a better position to determine what should be their mutual relationship.

We see, to begin with, that it is vital, in the public interest, that no case should go undealt with; and that no treatment should be left unfinished. Thus, however good and effective may be the voluntary agencies at work, the public health authority, as the only organization covering all the field, has necessarily to look after births and “search out” all dangerous diseases. However excellent may be the voluntary agencies in education, it is the public education authority that must see to it that no child grows up below the prescribed standard. However benevolent may be the voluntary agencies dealing with the mentally defective, it is on the public lunacy authority that we put the responsibility for getting all lunatics and idiots under proper control.

Thus, in all these great departments of the work, we see that the public authority cannot content itself with dealing with some, only, of the cases. Wherever there is a reason for its intervention it must have all the cases on its books. The prescribed national minimum has



to be ensured and enforced, at all times, as regards every case. And whilst on the one hand this indispensable minimum is secured to everyone—as we cannot, for our own sake, allow anyone to fall below it—it is indispensable that personal obligations and parental responsibilities should be enforced with equal universality; and that there should always be, along with the treatment, the due measure of disciplinary supervision and control, according to the nature of the case, to ensure that the individual co-operates in his own cure. For all these purposes the voluntary agency is disqualified and inappropriate.

On the other hand, though the public authority concerned must be responsible for the adequate treatment of all the cases needing attention, this does not mean that it need do, for all cases, everything that needs to be done. There is, as we shall see, an enormous part of the work which voluntary agencies can do better than the public authorities, in which they can bring to bear their specific advantages on particular cases or classes of cases, or in particular parts of the treatment of all cases.

In every branch of social work, with regard to every conceivable class of case, there is the utmost need for the initiative, the inventiveness, and the practical experimenting which voluntary agencies have so much at their command. Moreover, there is practically no part of the field in which we do not find particular kinds of need, which require and which would repay the devotion to their service of an amount of individual care and thought and money altogether disproportionate to their statistical importance, which it is seldom within the power of any public authority to bestow. And we shall most of us consider that, alike for children, for the feeble-minded, for certain classes of sick persons, for various types of able-bodied men and women who have fallen out of regular productive work, and possibly for others, there is room for institutions and personal ministrations of more distinctively religious character than the government of today will be permitted to organize.

Thus, it is quite impossible to dispense with or to exclude voluntary agencies; and it is clear that their part in any effective national campaign against destitution must be a large and important one. Nor is there any ground for restricting their co-operation to the "deserving" case. As the late General Booth of the Salvation Army rightly insisted, it is just those whom we call the "undeserving" who present

the greatest difficulties to state action, and for whom the special services of voluntary agencies are often most applicable. This is equally true of the later form of discrimination adopted by the London Charity Organization Society.

It is not alone for the cases that are classified as "helpable" that the state needs the co-operation of the voluntary agencies. Many of those whom the Charity Organization Society now rejects as "unhelpable" are admittedly very deserving; and there is no reason why these should be excluded from the ministrations of the charitable. As a matter of fact, it is just among the so-called "unhelpable" cases that the generous lavishing of love and personal care, which the State cannot bestow, has often achieved its greatest triumphs.

We must therefore reject, once for all, what has been called the "parallel bars" theory of the relationship between voluntary philanthropy and state action. There can be no sharing of cases between them. It is indispensable that the public authority should be and remain responsible for seeing that every case, without exception, receives the necessary and appropriate treatment, that every individual born into the community is given the opportunity to maintain the prescribed "national minimum" of civilized life; and that his obligation to come up to that standard is uniformly and invariably enforced.

Instead of a division of cases, we get, therefore, a division of functions. Under this theory, the voluntary agencies, with their perpetual seeking after new methods of treatment, with their loving care of difficult cases, with their varied religious influences, must be deliberately made use of in the public service to be constantly raising the standard of civilized conduct and physical health above the comparatively low minimum which alone can be enforced by the public authority.

Here we have a conception, not of "parallel bars" wholly separate and distinct from the other, with a large intervening space of "missed cases"; but of an "extension ladder" placed firmly on the foundation of an enforced minimum standard of life, and carrying onward the work of the public authorities to far finer shades of physical, moral, and spiritual perfection.

We may adduce, as an instance of the co-ordination of voluntary agency and state action, upon this, the "extension ladder," theory of their relationship, the widespread organization of poor relief in Ger-

many that we call the Elberfeld system. The local authorities, officially responsible for providing for the poor, make use of an extensive staff of unpaid and unprofessional volunteer workers, who visit the homes and make themselves acquainted with the circumstances of every family. This voluntary service is nominally obligatory upon all citizens, much as were, in England, the ancient offices of the manor and the parish surviving in the constable and the overseer.

The really distinctive feature of the Elberfeld system and the one to which its excellence is due, however, is not this obligation of service, which is seldom enforced, but the organic relationship in which the voluntary helper stands with regard to the public authority. To the necessitous family he comes as a friend, a neighbor, and a fellow-citizen, concerned to get them over their trouble in the best possible way. But on his other side, the voluntary helper is the agent of the public authority, registering his cases in the official records, reporting what he has seen, carrying out in his ministrations the official instructions which he has received, procuring admission for his families to the several public institutions, dispensing as outdoor relief the funds provided by the local authority out of rates and taxes, and acting throughout under the constant supervision and direction of the expert municipal officials in each department.

He is thus, to our eyes, a combination of the "friend of the street," of the Guild of Help, and the poor law relieving officer; of the member of a children's care committee and the salaried health visitor sent by the medical officer of health; of the volunteer collector of the country children's holiday fund and the school attendance officer. He is, in short, not a charitable worker, but a volunteer official!

The great advantages of the Elberfeld system are that (1) no case escapes notice or is prematurely dropped; (2) there is no restriction of funds or opportunities to those which private philanthropy can afford; and (3) the volunteer, having a very few cases to deal with and being able to take his own time over them, can give any amount of personal care and personal friendship in the discharge of his duties. As a matter of fact, also, he is allowed to use free discretion within certain regulations.

But although the so-called Elberfeld system of German poor relief has this excellence of form, it has the radical defect, as we can now



see, of concerning itself only with the relief of the families after destitution has occurred. It does not deal with the more important part of the problem—preventing the occurrence of destitution.

It is, in fact, only with regard to the domiciliary treatment of the destitute that the German Empire has developed any separate poor law administration. Practically all the institutions are unconnected with poor relief as such, and properly form part of the specialized local administrations dealing with public health, education, lunacy, or the maintenance of the able-bodied unemployed. In these departments of the work, however, we do not need to go to Germany for the best examples of what we have called the "extension ladder" relationship between state action and voluntary agencies.

In most of the cities of England we see developing, in all branches of really preventive work, a most promising system of co-operation between the several municipal departments and appropriately specialized volunteers. Working under the local health authority, in strict co-ordination with the efforts of the health committee of the City Council, and actually under the direction of the medical officer of health, we have growing staffs of volunteer health visitors, the rapidly multiplying "schools for mothers," philanthropic sanatoria, and convalescent homes, even here and there a voluntary hospital, all dependent on private zeal and charitable benevolence for personal service and funds. Working under the supervision and direction of the education committee of the City Council and its chief officers, we have all the varieties of children's care committees or school canteen committees, country holiday fund committees, and "spectacle committees," the play centers and the vacation schools, and here and there even a privately subsidized dental clinic or general school clinic, all illustrating the initiative, inventiveness, and the devoted personal zeal of the voluntary and philanthropic institution.

Working in connection with the asylums committee of the City Council, we have already a few "after-care" committees and various philanthropic institutions. Here and there the old age pension committees of the City Councils, new as they are, have already begun to develop a system of voluntary pension visitors, and to look out for donors of almshouses in which to lodge the most deserving and the most helpless of their pensioners. The government labour exchanges, with their scheme of unemployment insurance, which have been



started only two years, have already advisory committees, after-care committees, and juvenile labour committees, and may find themselves presently in organic connection with a series of labour colonies, managed by the devoted zeal of the great religious denominations.

It is already clear that the English City Councils will call for, and will obtain in their work of collective provision for the non-effectives the help of a multitude of voluntary workers and the co-operation of a whole series of voluntary institutions.

We suggest that this "extension ladder" theory of the relationship between state action and voluntary agencies, and the organic connection which it establishes between the specialized municipal departments and the similarly specialized voluntary workers and philanthropic institutions, affords, for the first time, a most promising basis for that real organization of charity, which is so badly required. However it may be in New York or Chicago, in London voluntary philanthropy is not systematic or co-ordinated.

After nearly half a century of incessant and devoted efforts, the London Charity Organization Society has, everywhere and completely, failed in any sense to "organize" even the corporate charitable agencies. The explanation seems to us clear. The theory on which they have been working—the attempt to segregate the beneficiaries into two absolutely distinct camps, so that the public authority alone deals with one set of poor people, and the voluntary agencies alone with quite another set, virtually excludes the public authority from the work of charity organization, whereas it is the public authority alone that can accomplish it. No one charitable agency will be allowed by the others to control them. The Charity Organization Society is a charitable agency like any other; and every corporate charitable agency, feeling itself in rivalry with the rest, is intensely jealous of every other one. But once it is accepted that the public authority and the voluntary agencies have both to deal with the same persons, and to undertake distinct functions with regard to these persons there is not the same rivalry between the two organizations. Moreover, all charitable agencies are, so to speak, on the same plane. One charitable agency can seldom do anything to complete and supplement the work of another charitable agency, because both alike suffer from the defects of their qualities—they cannot give continuous treatment, and they cannot exercise disciplinary powers.

In the public authority, the voluntary agency discovers a partner who is willing to remain in the background, but who has the necessary resources and the necessary powers to make good the position of the voluntary agency as regards its effect on the character of the persons whom it treats. The farm colony or the voluntary hospital, the orphanage or the play center, however excellent may be the treatment which it affords, can do nothing to prevent the "abuse" of its hospitality; it cannot make conditions or exercise supervision as to the conduct of the person before and after treatment, though this may be essential to its success.

The unlimited free medical treatment afforded by the voluntary hospitals is so unconnected with any disciplinary supervision over the person who takes advantage of it, that it frequently acts as a subsidy to unhygienic if not to immoral living. Moreover, patients have to be turned out with the practical certainty that there is no place to which they can go to be saved from dropping back into the disease from which they have recently emerged. The farm colony is hampered by having no such outlet for the good man as a universal exchange and government responsibility for finding either work or training would afford; and at the same time it can inspire no fear of relegation to a reformatory detention colony in the man who is hopelessly recalcitrant.

We shall never get the full advantage of all the brilliant invention and devoted zeal and work existing among our volunteers and our voluntary institutions until we can place them on the sure foundation of public responsibility for the maintenance and enforcement of a minimum standard of life. When we have once secured this solid foundation, our voluntary agencies will become what they ought essentially to be—on the one hand the eyes and face and fingers by which the stiffly moving machinery of collective action can be brought most effectively to bear upon particular cases discovered by or remitted to them; and on the other—pioneer endeavors to raise ever higher and higher the standard of what human conduct can be made to be; by showing, in this direction and in that how and where it is possible actually to raise the "national minimum." In this way will be pushed ever upward the conception of the order, the freedom, and the beauty that it is possible to secure to and for every individual in the community.

93. THE ELBERFELD SYSTEM<sup>1</sup>

In order to understand German poor relief we must call to mind the fact that throughout Germany, with the exception of Alsace-Lorraine, the care for the poor is made a legal obligation. This obligation is enjoined upon communes, municipalities, and communal corporations. Whether, in any individual case, aid is really necessary, and of what kind, and in what amount,—all of these questions are decided by the authorities in whose district the applicant is living. Complaint because of the refusal of aid can be registered only with the officers of relief, not in a court of law.

In view of the great variety of organizations for poor relief, the poor laws are content to make one general requirement, viz., that aid is to be granted in case of need, within the range of necessity. Details as to plan of work, organization, etc., are left for each community to decide for itself. In what manner the work is to be carried on must be determined by local conditions, such as the wealth of the church and ecclesiastical orders, the wealth of the community at large, the extent of the population, and the administrative system underlying the work. In smaller communities and less densely populated localities, where the entire field can be easily surveyed, a moderate fund is raised for charitable purposes, the dispensation being left entirely in the hands of a salaried official (mayor or alderman). Occasionally we find a community possessing such liberal endowments that public relief is hardly necessary. In the poorer rural districts people generally prefer to furnish their dependents provisions and necessities of life, or give them a home in the poorhouse. In medium sized places (cities of 20,000 to 100,000), however, as well as in large cities (of over 100,000 inhabitants), a particular organization becomes necessary, which is generally quite separate from the strictly administrative machinery, and is met with under such names as *Armenverwaltung*, *Armendirection*, *Armenbehörde*, and the like. Among the latter we may distinguish three principal methods. First, the director of the *Armenverwaltung*, generally the mayor or some member of the local

<sup>1</sup>From *Modern Methods of Charity* (pp. 3-8), by Charles Richmond Henderson, formerly Professor of Sociology in The University of Chicago. Copyright, 1904, by The Macmillan Company, New York. Reprinted by permission. Adapted by Henderson from articles by Dr. Emil Münsterberg in the *American Journal of Sociology*, January and March, 1897.

administration, examines, usually through paid officials, every application for aid ; these officials report on the case and thus reach a decision. This is now the least common method, all more important relief authorities having dropped it. Second, the administrative board has a number of unpaid assistants ; to each of these is assigned one or two small districts, within which he is to examine carefully all cases of poverty and distress that may occur ; his findings he reports to the board, usually with some suggestion or recommendation as to the kind of aid to be granted ; the decision of this matter, however, rests with the board. Third, the board has the entire business management in its hands ; the individual cases are divided among a number of honor offices ; the holders of these offices not only examine and report on cases in their charge, but also determine what relief measures are to be employed, and if the case does not require hospital care or removal to an institution, they even apply the remedy themselves and assume a sort of guardianship over the dependents during the time they receive aid. This is the method now most generally in use ; it is based on the principle of the Elberfeld system, that the unpaid official must be held responsible for the resources which the community places at his disposal for the work. Following the example of Elberfeld, nearly all the cities of the Rhine have adopted this system, while many other large cities have reëstablished or revived it, as Hamburg did. The old charity system of the city of Hamburg, superseded in 1893 by the present one, was organized by Büsch and Voigt at the end of the eighteenth century, and was received, at the time, with a great deal of well-deserved admiration. It was based on entirely similar principles.

The fundamental principle of the Elberfeld system might also be expressed thus : thorough examination of each individual dependent, continued careful guardianship during the period of dependence, and constant effort to help him regain economic independence. But these requirements can be fulfilled only through the assistance and coöperation of a sufficient number of well-qualified persons. And the great results the Elberfeld system has attained must be attributed largely to its success in regulating and keeping alive this coöperation. The first experiments along this line were made at the beginning of this century in the form of an organization of municipal charities, including all religious denominations ; its purpose was in the first place



to check indiscriminate almsgiving, thus diminishing the great evil of mendicity, and at the same time to take the place of ecclesiastical poor relief, which no longer sufficed. Here, already, the principle of thorough examination, careful guardianship, and continued assistance was established. But in practical administration the greatest difficulty was experienced because of the small number of helpers at command and their insufficient organization. Then the number of helpers was increased, they were divided among the local districts, and their duties defined as those we have indicated. But the successful working of this arrangement was again curtailed and hampered by the fact that the helpers remained mere investigators and reporters, the decision as to manner and amount of the aid to be granted still remaining in the hands of the supervising board. The evils which it was intended to combat were not remedied, the poor taxes increased, the number of beggars was on the increase, and the ideas of the poor regulations were not carried out. It remained for a citizen of Elberfeld to discover the proper method, establishing the personal responsibility of the helpers. Thus a great advance was made toward the solution of one of the most important problems of poor relief, viz., the proper relation between donor and recipient. In this spirit the reorganization was effected, at Elberfeld, in 1852. We recognize in the reorganization three points of importance: (1) individualization, (2) the visitors have a voice in the determination of means, (3) decentralization. The first is attained by a division of the entire city into quarters, such that each shall not contain more than four dependents (individuals or heads of families), and the placing of each quarter under the supervision of a visitor. The visitor (*Armenpfleger*) is the chief organ of poor relief; it is his duty to visit the poor of his quarter at regular intervals, to keep himself constantly informed as to their circumstances, and to exert an educational and refining influence over them and their families. He is to be their friend and adviser, and is to insist on discipline and order. Ill-disposed and lazy persons it is his duty to report to the authorities for legal prosecution. The arrangement which gives the visitors the decision as to manner and amount of the aid is this: The quarters are grouped into circuits or districts; the visitors of a circuit have regular meetings for the purpose of discussing the work, taking counsel, and deciding on the amount, the kind, and duration of the assistance to be given. At the head of each such circuit there

is a superintendent or inspector (*Vorsteher*), who presides over and directs the proceedings of the circuit and negotiates between the visitors and the central board. The central administrative board (*Hauptverwaltung*) is composed of a representative of the city administration (*Stadtverwaltung*) and of members of the city council. It has charge of the general direction of poor relief, the control of the decisions and resolutions of the circuits, the making of general regulations affecting all quarters, the supervision of institutional and hospital relief, etc. Moreover, it is the duty of this central board to search out the causes of poverty, to acquaint itself with the conditions of the poorer classes, to prepare and direct measures of a general nature, to see that the means at disposal are wisely used,—in short, to attend to everything not directly connected with passing upon the individual cases. Their control over the proceedings of the circuit, therefore, does not imply a suspicious scrutinizing of each individual case, but is merely to give them an opportunity to see, in a general way, that the principles laid down in the poor laws are being carried out. The validity of the decisions of the circuit is not dependent on the approval of the board.

With the single exception of the chairman of the general board, who usually belongs to the higher class of salaried municipal officials, all the offices, those of the board, the superintendents, and the visitors, are purely honor offices. The members of the general board are chosen by the municipal council, the remaining officials by the board; and all are obliged to perform the duties of their respective offices without any remuneration. This is in accord with the entire system of German self-government, which makes a large number of offices purely honorary; especially is this true of their system of poor relief. And the peculiarity of this latter system is that, contrary to the custom of other forms of self-government, the offices are not limited to persons who have already won the greatest respect of their community, or who are made prominent by reason of wealth or social position, or who may have leisure to attend to the duties of an honor office. Here we find, on the contrary, that all classes of citizens are drawn into the service, and that a special effort is made to enlist the citizens of modest means, the tradesman, the mechanic, and the better class of laborers as visitors. Experience has proved, beyond a doubt, that circuits made up entirely of helpers from the upper classes distribute

their funds far more lavishly than those composed of helpers of all classes, and that helpers drawn from the upper classes too easily lose their sympathy with their wards, from whom they are socially too far removed. Moreover, both at Elberfeld and in other cities, it has become a tacitly accepted custom that the office of a visitor in the poor relief department is the first round in the ladder of municipal honor offices; and no one can reach the upper, more highly esteemed positions, who does not begin on the bottom round.

The machinery we have thus described is complemented by a thoroughly organized, well-regulated business management. This is composed of a number of salaried officials forming a division of the general board, whose work supplements, in a variety of ways, that of the honor offices. It is their duty to gather statistics concerning each individual receiving aid, to collect these statistics in books and papers, so that they will be easily accessible to anyone desiring information concerning a particular person. It is also their duty to examine the proceedings of the circuits and to bring to the notice of the general board any faults that may be discovered. The object of all this, however, is not to control or direct the work of the visitors, but to supplement it; but without this coöperation, supervision, and mediatory interposition there would be no decentralization, but the exact opposite; for the independence of the several circuits would lead to entire arbitrariness, to a dangerous inequality, and the system would be lost. Finally, it may be added that the work of all these offices, the general board, the superintendents, the helpers, and the business management, must be carefully regulated by wise poor laws and by instructions. These must furnish a good, reliable guide to a judicious performance of duty, without curtailing in the least the freedom of decision in a particular case. The value of good directions can never be overestimated. Lack of them and dependence upon the good sense and good will of the various officials may entirely frustrate the accomplishment of the desired results. To draw up proper regulations and directions, without going too much into minute details, and to carefully adapt them to a local environment will always be the most important part of the preparation for a reform of poor relief.<sup>1</sup>

<sup>1</sup> A letter dated February 15, 1923, received from Dr. Leopold von Wiese, Professor at the University of Cologne, makes the following statement concerning recent modifications of the Elberfeld system:

94. STATE MONEY AND PRIVATELY MANAGED CHARITIES<sup>1</sup>

Of all problems in social policy none is more harassing, more complex and perennial than that of determining the proper relation of the state to privately managed charities within its borders.

Shall the state pay the private institution for caring for the state's wards? If so, shall it discriminate among institutions, giving money to those of state-wide scope and withholding it from those operating in local areas; or shall it make its distinction lie between the classes of dependents helped, not the institutions? If the state shall not pay money to private institutions, what principles shall underlie its own charitable endeavor? And finally, shall it fight shy of all binding rules and merely adopt the flaccid expedient of "doing good"?

Within the next few years these questions will vex a dozen constitutional conventions. Within the past year they have strained the bonds of friendship among social workers and public servants in at least one state and have put rocks in the path of a progressive city administration in another.

Twenty-two states make no appropriations whatever to privately managed charities, fifteen make such appropriations sparingly, and nine place no apparent restriction on their grants.<sup>2</sup> The practice

The strict Elberfeld system is to-day in use in only a few towns. In a good many towns it has been modified by a scheme adopted for the first time in Strassburg in 1912. The lack of qualified poor law guardians and the disadvantages of the district system by which one guardian is appointed for all the relief cases in his neighbourhood made the Strassburg local authorities appoint special officials for the administration of the poor law. The poor asking public relief have now to apply first at the poor law office of their district—not at the guardian's as before—and the officials when they do not look after the case themselves—as is done in case of sending people to hospitals or children to an orphanage—select a guardian qualified for the special case according to its need and as guardians are available. The aim is to make paid and unpaid guardians work together each supervising the cases he is best fitted for. Only a few cases are given to one guardian and he also looks after them when they move to another district.—Ed.

<sup>1</sup>By Alexander Fleisher. Adapted from the *Survey*, Vol. XXXIII, No. 5 (1914), pp. 110-112.

<sup>2</sup>As no answers to inquiries were received from Alabama and Utah, this study is based on the experience of forty-six states. This study applies only to appropriations by the state itself and not to local appropriations by counties, cities, and towns.



of these last two groups has been made the subject of analysis for the Public Charities Association of Pennsylvania. The results are presented here. The work has been done with an impartial desire to draw the meaning of varied past experiences for the sake of the future. The amounts of appropriations, the types of institutions assisted or of persons cared for, and the results of state policy on institutions, on the public, on politics, and on the state's charities are the main points considered.

The fifteen<sup>1</sup> states in the first of the two groups studied restrict their appropriations, either deliberately or accidentally, to the care of a few special classes of dependents. A study of the facts surrounding the making of appropriations by these states shows that each of them, in giving money to privately managed charities, is simply seeking to care for classes of dependents for which it feels responsible but for which it has as yet made no provision in publicly managed institutions. These states are without comprehensive systems of state care and responsibility, and are therefore merely resorting to the privately managed institution until such time as they can undertake the full task themselves.

This is borne out by the fact that several states, notably Massachusetts, Michigan, and New Jersey, have already gone so far as to assume complete responsibility for dependent children. In thirteen states the proper care of the tuberculous is being sought by citizens through joint action by state and county. Delaware and New Hampshire, although making some public provision for the tuberculous, have not developed adequate facilities, and are therefore boarding out a number of patients.

One of the most interesting of these apparently temporary expedients is the state care of fallen women in Arizona, Nevada, Oregon, and Washington. None of the older and more experienced states has regarded the care of fallen women as a state function.

The nine states in the second group do not restrict their subsidies to the care of special classes, but bestow their money quite miscellaneously. The number of institutions receiving help from these states and the amounts of their annual appropriations are as follows:

<sup>1</sup>Arizona, California, Delaware, Idaho, Massachusetts, Nevada, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Oregon, Vermont, Virginia, Washington.

	<i>Institutions</i>	<i>Amount</i>
Connecticut . . . . .	28	\$156,993
Kansas . . . . .	61	15,000
Kentucky . . . . .	3	70,000
Maine . . . . .	41	139,400
Maryland . . . . .	82	453,450
New Mexico . . . . .	11	22,000
Pennsylvania . . . . .	277	3,714,713
Rhode Island . . . . .	4	13,000
West Virginia . . . . .	3	14,700

Several differences of practice between this group of states and the former are observable. Among the nine making such miscellaneous appropriations there is slight differentiation between state and private responsibility. We have already seen that a tendency to such differentiation does exist among the fifteen that restrict their gifts to special classes and that these states for the most part appear to consider their subsidies to privately managed charities as mere temporary expedients pending the establishment of adequate facilities by the state itself. This conception of public responsibility does not seem to enter into the policy of this second group of states, which appropriate money to more varied groups of charities.

Another difference is that whereas the first group of states shows a tendency to make its appropriations on a per capita basis and is often represented on the boards of managers of the subsidized institutions, the second group is more apt to make its grants in lump sums without retaining any control over their expenditure. These lump sums are generally "for maintenance," though not infrequently provision is made for buildings also.

A third difference between these groups is that many of the first show a disinclination to subsidize charities operating in a local area, while few of the second group make any distinction between charities doing state-wide and those doing purely local work. Frequently hospitals, day nurseries, and other institutions whose very nature confines their service to narrow geographical limits are given help.

The nine states making unrestricted and miscellaneous appropriations also fall into two classes. The first includes those that give to but few institutions or that give comparatively small amounts. These are Kansas, Kentucky, New Mexico, Rhode Island, and West Virginia. The second includes those that give to many institutions or

that give large amounts. These are Connecticut, Maine, Maryland, and Pennsylvania.

A significant difference in the policies of these smaller groups appears. It is that the first five states, giving to few institutions or giving only small amounts, tend to limit donations to one or two kinds of charities, while the second group spreads its money out over a heterogeneous assortment of institutions. Thus, of the first five, Kansas gives to sixty-one hospitals and homes; Kentucky to two children's homes and one home for incurables; New Mexico to eleven hospitals; Rhode Island to two hospitals, one children's home, and one prisoners' aid society; West Virginia to two hospitals and one children's home.

Maryland typifies the policy of the second group. She gives to eight reformatories, one institution for epileptics, two for the deaf, two for the tuberculous, twenty-two general hospitals, two special hospitals, eleven homes for adults, two rescue homes, one home for incurables, twenty-two children's homes, three placing-out societies, four day nurseries, and two homes for crippled children.

The lack of any differentiation between local and state-wide charities is strikingly seen in the four states that give large amounts or to many institutions. The following table makes this clear:

	HOSPITALS		SANATORIA		HOMES, ETC.	
	<i>Number</i>	<i>Amount</i>	<i>Number</i>	<i>Amount</i>	<i>Number</i>	<i>Amount</i>
Connecticut . . . .	23	123,875	per capita		5	33,118
Maine . . . . .	16	56,650	7	23,100	16	42,450
Maryland . . . . .	24	220,500	2	31,500	45	119,750
Pennsylvania . . . .	149	2,528,910	5	45,000	116	427,850

These are the important facts to be borne in mind by anyone who would turn to the experience of the past for safe guidance in determining the proper relation of the state to privately managed charities. The twenty-two states making no appropriations to such charities include some that are regarded as the most advanced in their state charitable work and some that are regarded as backward: Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, South Carolina, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming.

This analysis of the country's experience helps one to the following statement of the alleged advantages and disadvantages of making state appropriations to privately managed charities:

### *Alleged Advantages*

It is cheaper for the state to allow private agencies to carry on the work ;

Charities are removed from the blight of partisan politics ;

The system has a better effect on dependents, especially children, whom it allows to receive moral instruction ;

It does not stigmatize the recipients of charity.

### *Disadvantages*

Although politics are frequently removed from management, they enter into the securing of appropriations ;

Managers and supporters of private charities are compelled to oppose general measures of social reform ;

The system encourages the duplication of institutions ;

It harms the charitable institutions receiving aid ;

It tends to increase pauperism by disguising it ;

It causes a confusion of function between state and private philanthropy. The state fails to outline a constructive policy for the prevention of dependency ;

It necessitates neglect of those who are properly state wards.<sup>1</sup>

Can there be any doubt that the disadvantages far outweigh the advantages? Indeed, some of the alleged advantages can not go unchallenged. It is to be doubted if it is economical for the state to assist in the support of local institutions, privately managed. The theory here is that if this work were not done for the state, the state would have to assume the entire responsibility, but in a large number of instances the state would not be called upon at all. Again, why is the recipient of the help of a Florence Crittenden Home less stigmatized by the institution because a part of her support has been furnished by the state? There is no stigma that attaches to a state

<sup>1</sup> Compare A. G. Warner, *American Charities*, 3d ed., pp. 409-429, New York, 1919; Homer Folks, *The Care of Destitute, Neglected, and Delinquent Children*, pp. 145-149, New York, 1902; F. A. Fetter, *American Journal of Sociology*, Vol. VII, No. 3 (1901), pp. 359-385.



institution that does not attach with equal force to a private one. The alleged advantage that this system permits children to receive moral instruction is answered by the fact that they may receive this instruction also as wards of the state.

Charities are forced into politics by their dependence on appropriations. A whip is held over independent members of the Legislature by the threatened withholding of appropriations, and prominent citizens fail to support progressive legislation, fearing that the institutions in which they are interested will suffer.

Communities are burdened by the duplication of institutions. In spite of repeated recommendations by the State Board of Public Charities in Pennsylvania, two Negro hospitals within a few blocks of each other are subsidized. Two hospitals, located in adjoining buildings, treating almost exclusively diseases of women, do not combine because each is receiving sufficient state aid to warrant its continuation as a separate institution. In this way duplication is not only countenanced but encouraged, in spite of the fact that it has been shown that throughout the year an average of one-third of the beds of the hospitals in Philadelphia County are unoccupied and that the same condition holds true of children's institutions throughout the state.

The institutions receiving support are seldom benefited. Private subscriptions fall off when the state undertakes to support them, even partially, and valuable moral support is withdrawn. The report of one hospital states: "This appropriation, grand as it appears in figures, has almost acted as a detriment to us, as ever so many donations heretofore received by the hospital have been withheld during the last year."

The money raised by general taxation is used to assist special localities. It is inconceivable that a day nursery in a large city can do more than serve a very small geographical area, yet the entire population of Maryland is taxed to support four day nurseries in Baltimore. All general hospitals must, for the most part, serve local needs, and yet one hundred and forty-nine hospitals in Pennsylvania received appropriations from the Legislature of 1913.

The system, once started, grows by leaps and bounds. Twenty-five years ago 35 institutions under private management in Pennsylvania received \$1,228,276.20 for a biennial period. At the last session of the Legislature 277 such institutions received \$7,429,427.

The most serious result, however, is that the state fails to perform those charitable functions which it can do best. It is a generally conceded rule of state policy that the state shall first care for those individuals for whom it is best able to care—those who should be handled in large units, such as the insane, the inebriate, the vagrant, and those whose care must extend over a long period of time, such as the feeble-minded.

These classes suffer neglect when the state dissipates its money and energy in grants to privately managed charities. The state merely ignores its own responsibility to assume that of a municipality or of a private philanthropy. Maryland and Pennsylvania, for example, have made practically no provision for the adult feeble-minded or for the epileptic. The hospitals for the insane in these states are inhumanly overcrowded.

The history of the states here examined betrays throughout a confusion between simply "doing good" and the proper and legitimate functions of the state. Giving public money to any institutions that apply vehemently enough, as long as that money lasts or the people will stand for the outlay, and without a conscious and scientific principle of helpfulness, is exactly analogous to an individual giving from his pocket to every stray beggar that accosts him on the streets.

Unless there is a strong sentiment among the people of the state against these appropriations, nothing short of absolute prohibition in the constitution will prevent them. Absolute prohibition will do this. Colorado, Louisiana, Montana, Texas, Illinois, and Wyoming are the only states that have put such a prohibition into their constitutions<sup>1</sup> and none of these states makes appropriations to privately managed charities.

On the other hand, some states have put partial restrictions on their Legislatures in making such appropriations and have required a two-thirds vote. Alabama, Arkansas, Mississippi, Pennsylvania, Rhode Island, and South Dakota have done this,<sup>2</sup> yet two of these states do make such appropriations.

<sup>1</sup> Colorado (1876), Art. V, sect. 34; Louisiana (1898), Art. LIII; Montana (1889), Art. IV, sect. 35; Texas (1876), Art. XVI, sect. 6 (amendment, 1904, Art. III, sect. 51); Illinois (1870), Art. IV, sect. 16; Wyoming (1889), Art. III, sect. 36.

<sup>2</sup> Alabama (1901), Art. IV, sect. 73 (see also amendment, 1875, Art. IV, sect. 34); Arkansas (1874), Art. V, sect. 29; Mississippi (1890), Art. IV, sect. 66; Pennsylvania (1873), Art. III, sect. 17; Rhode Island (1842), Art. IV, sect. 14; South Dakota (1889), Art. XII, sect. 2.

California, New York, and Virginia forbid appropriations except to special groups of institutions, but this has not operated to prevent confusion in those states between public and private responsibility.

Both the testimony of the past and a clear perception of the state's proper responsibility to its dependent classes point to the following as principles that every state ought to follow:

The state should provide first for the care of those groups that are properly state wards;

No appropriations should be made to charities under private management until the reasonable needs of the charities managed and supported by the state have been fully met and an adequate system of state institutions developed (it may safely be said that no state can now foresee the arrival of such a blessed time).

In order to accomplish such a program in the states that at present give state appropriations to privately managed institutions the following policies should be adopted:

No appropriation should be made to any institution whose work is not state-wide and which in the natural operation of its functions does not receive wards from the entire state;

No lump sum gifts should be made and all appropriations should be in return for service rendered, on a pro rata basis; such service to be measured by the free work done on the order of a proper public official.<sup>1</sup>

In the case of some institutions it will perhaps be necessary to arrange for a gradual reduction of appropriations. The first step is for the state to add no new institutions to the list. The suggestion made by the Board of State Aid and Charities of Maryland that appropriations be made for one year and thereafter be discontinued, is perhaps too severe. It may be advisable to allow the adjustment to cover a period of four years with a 25 per cent reduction of appropriations after each year.

<sup>1</sup> Compare *Report of the Committee on Standards and Qualifications in Granting State Aid*; *Report of the Pennsylvania Conference of Charities and Corrections*, 1912, pp. 70 ff.; and also the article by Charles H. Frazier, M. D., in the *Press*, Philadelphia, November 9, 1913.

## CHAPTER XXVI

### SOCIAL CASE WORK

#### 95. SOCIAL WORK WITH FAMILIES AND INDIVIDUALS<sup>1</sup>

Persons who need charitable assistance are not different from other persons except in the power, or the inclination, to satisfy their own needs. Whatever it is that enables non-dependent families and individuals to meet the contingencies of life through their own knowledge and effort is the particular thing which the dependent lacks. Primarily it is neither the loss of a job, sickness, lack of income, bad habits, or other disability that leads a man to ask for charity. If it were, most people would be dependent frequently, since these liabilities are not confined to the poor. In any community more of those who are affected by them are above the line of dependence than below it. It is only those who lack the power of self-maintenance who become dependent.

It is true that social work is organized for the most part in terms of material needs. We have laws for the preservation of health, for the protection of those who work, for the protection of children, and for compulsory education. We have public departments for the administration of the machinery which these laws create. We have official and voluntary agencies for the improvement of housing conditions, for the care of the sick, for the provision of material relief, for the care of children. We have agencies for the study of working and living conditions with a view to the improvement of such as are prejudicial to the common welfare; and we have a steady emphasis laid by all agencies upon the need for changes in our common habits and practices which affect the welfare of the community and all its members.

These organized activities, however, are not intended to lift from any person responsibility for his own welfare. They are rather the effort of the community to help him discharge that responsibility more

<sup>1</sup>From *Social Work with Families and Individuals* (pp. 3-16), by Porter R. Lee, Director of the New York School for Social Work. Russell Sage Foundation, New York, 1915.



successfully and more easily, and at less cost to himself and society. Any activity—whether in legislation, in relief, in medical treatment, or in industrial reform—which seeks to meet the normal needs of men from the outside rather than to develop within men the power to meet their own needs, represents a low plane of social work. To develop the power of self-maintenance, while he recognizes and provides for immediate disabilities, is the important problem for the social worker.

*An application is an opportunity.* Disabilities do not stand alone. If they did, a charitable agency might conduct its work very much like a business house. The applicant, like a customer, might ask for what he needed. The only question facing the social investigator would be whether the commodity or service requested is part of its stock in trade, and if so, whether it desires to place them at the disposal of this particular applicant. The disabilities of the poor, however, are even more varied than the forms of social work, and they rarely come singly. Inefficiency, ill-health, waywardness, unemployment, and unstable character have a way of intertwining themselves, and in the atmosphere in which they develop are found also many attendant evils like bad housing, ignorance, and immorality. Unlike a business house a charitable agency cannot deal alone with the one disability for which an applicant seeks its aid. There are usually others just as urgent, and one cannot be successfully treated without taking account of them all.

The precise request made by an applicant may represent his greatest need and it may not. Usually it represents his own selection from among a variety of needs, any one of which would justify long and intelligent interest by a social worker. What he asks for—commitment of children, transportation, relief, hospital care, institutional care for a defective child—may seem to him to meet his most obvious need; it may be the most urgent thing; it may be merely the thing he thinks he is most likely to get; it may be what a neighbor did actually succeed in getting. Whatever the reason behind, it should signify to a social worker an opportunity to study the applicant's whole situation, in order to discover how many and how varied his disabilities may be, and what service the community has made available in its organized social work to help him meet them.

Diagnosis of the disabilities of applicants and the cooperation of different agencies in treating them have come to be part of a definite

process. Every charitable service to a disabled family or individual should be preceded by an inquiry into the history and present condition of the applicant which will yield the facts necessary to intelligent action. This inquiry has come to be known technically to social workers as an investigation.

*Disabilities and assets.* There are many misconceptions as to the purpose of an investigation. No intelligent social agency investigates merely in order to separate residents from non-residents, or the worthy from the unworthy. The unworthy poor to an older generation included all those degenerate, shiftless, dishonest, lazy, deliberate victims of misconduct who do not readily respond to benevolent interest. A large part of modern social work, on the other hand, is dedicated to the defense of society against misconduct and of the "unworthy" against themselves. The medical treatment of inebriates, farm colonies for vagrants, and colonies for the feeble-minded, contrast with the harsh and uncharitable treatment which was formerly given. It is a misconception to think of an investigation as an attempt to establish the truth or falsity of an applicant's statements, or as causing procrastination in relief. Social investigation expedites relief.

The fact is that the more thorough and specialized the treatment of disabilities becomes, the more important it is that we have information regarding them before taking any but emergency action. A well-known physician says that whereas a generation ago ten minutes would serve for the diagnosis of most diseases, an average of an hour is required at the present time. This is largely because we know more about disease, have better facilities for studying it, and see its relation to many other factors in the life of the patient. This is equally true in the treatment of social disabilities. The need of hospital treatment may prompt an application to a charitable agency. Behind the illness, in work, habits, or home environment, lies a cause. These social disabilities may need treatment quite as urgently as the illness. No permanent result from any charitable relief can be hoped for until the social cause is known; until account has been taken, on the one hand, of all the other disabilities, and, on the other, of the family assets in character, earning capacity, income, and moral influences. These assets are the foundation upon which the power of self-maintenance may be built.

The facts regarding these disabilities and assets must be ascertained at the outset. If the situation is critical, emergency treatment such as

shelter, food, or hospital care may need to be secured at once without waiting for investigation. If the agency receiving the application is not able to give this emergency assistance, it must be obtained from some other organization. Such emergency action should not interfere with the securing of facts as a basis for extended treatment. If this is not done, short-sighted, inappropriate, or utterly ineffective service may be given, or even an actual injury. The kindest service, and in terms of family welfare, the least costly service, is that service which is most intelligent. The most intelligent service is that which leads to results of permanent value.

The process of discovering a family's assets and needs is not a separate and different process covering distinct ground according as it is made necessary by ill-health, inefficiency, lack of income, law-breaking, or orphanhood. A man can present only one character, one personality, one history, one life, whether he stands before the application desk of a hospital, a relief society, a shelter for homeless men, a domestic relations bureau, or a police station. A human being presents the same set of traits to reckon with or build upon wherever he may be. He has just one set of weaknesses, one set of prejudices, one set of strong points, one personality, one temperament. This is true of the family as of the individual. Just as different traits group themselves into an individuality, so different disabilities and different resources group themselves in the family problem and must be considered together. It is not five different kinds of welfare that five different social organizations desire for one family in which all are concerned. There may be many different factors in the achievement of social welfare. One may be more interested in one factor and another in another. But all are interested in securing that combination of circumstances upon which social welfare depends.

*Methods of investigation.* It is the task of a social worker in his investigation to analyze the needs and assets of his families in some such process as this. The information necessary can be acquired only in certain fairly definite ways which have come to be established as the method of social investigation. We know what a man's health is, what his capacities, habits, temperament are, when we have made use of certain definite sources of information.

The health of an individual is a prime factor in any plan for his welfare. This is obvious when his application to a charitable society



is due to sickness. It is also true when other needs, like employment or relief, are more apparent. His present state of health can be ascertained by medical examination. Frequently, however, it is desirable to know his previous health history. This can be learned partly from his own statement, and partly, in many cases, from some institution where he has been under treatment. Disabilities of many kinds are so often due to poor physical condition that definite information on this point should be part of practically every investigation.

The earning power of a family is important. Children in New York state are forbidden to work until they are fourteen years old, and between fourteen and sixteen only after reaching certain standards of education and physical development. The capacity of a worker chiefly determines his earning power. This can be ascertained for both adults and children by consultation with former employers and this inquiry will frequently lead to valuable information regarding habits and general intelligence.

The personal qualities of a man are important factors in any treatment. Intelligence, reasonableness, reliability, moral standards, thrift, and general responsibility are traits which make self-maintenance possible once the opportunity is given. Their absence will wreck any plan which the social worker may make. The degree to which a person possesses them cannot often be determined in one interview. One must know his habits, his reactions upon others, his response to those persons and organizations that have a claim upon him. This knowledge may be gained by conference with relatives, employers, school teachers, friends, pastors, and others who have known him. It is usually well to avoid inquiries in the neighborhood where a family lives. Such inquiries nearly always lead to embarrassing publicity.

The same sort of inquiry will reveal the help, financial and otherwise, which many of these same relatives, churches, benefit societies, and friends can contribute to the particular plan of treatment necessary to restore a family to some degree of normal living. Not every case of need will require so extended an investigation. The inquiry should go far enough however to enable the social worker to discover the strong and the weak points in the individual members of the family and to formulate clearly a plan of treatment which with the aid of the city's organized social service will develop the strong points to overcome the weak.



*The use of other social agencies.* Investigation may show that the action required is not a function of the agency or department receiving the application. A full measure of responsibility on the part of such an agency, however, demands that such application be not dismissed summarily, but referred to some one of the community's organizations whose function it is to receive them. New York City has many facilities for dealing with the disabilities of the poor. Laws and institutions abound. Societies and public departments exercise various functions. It is not to be expected that the poor will know which to call upon or how to use them all. Hence a large part of the task which every application presents to a social worker is the calling in of the appropriate services of other organizations. This responsibility demands of social workers a knowledge of the city's resources and of the procedure for using them effectively, and in meeting it the use of the Charities Directory is indispensable.

Some of these agencies confine their work to certain districts, and some cover the entire city. Most of them have fairly definite functions. A social worker whose duties are limited to a particular district should familiarize himself with the resources of the district—hospitals, dispensaries, nursing service, milk stations, relief societies, probation officers, tenement inspectors, public schools, playgrounds, settlements, employment agencies, and police stations. He should know their general powers and the scope given them by law or by their own organization. He should know how to secure the services of each. The more personal and informal the cooperation among such agencies the better for those in need of help.

The most important single factor in the use of the other agencies is the Social Service Exchange, with telephone service. The efficient social agencies of the city which deal with families and individuals use the Exchange regularly. By inquiry of the Exchange the social worker receiving an application from a family in need can learn at once what other organizations have inquired concerning the same family. He can then put himself into touch with these agencies and receive the benefit of their experience. This avoids duplication of work, but more important than this it enables him to learn how his families have responded to other forms of social treatment, and this in turn will help him in deciding upon his own plans.

*The importance of cooperation.* The division of labor in social work has proceeded so far that the cooperation of charities is no longer an exchange of courtesies merely. No one agency can meet all the needs of any one family. If the service needed is found to come more appropriately from some other agency, or if one's own organization can meet only a part of the difficulty, then the social worker must assume the responsibility of intelligent cooperation with others.

For example, the commitment of children may be a function of the Department of Public Charities or of the Children's Court. If an application for commitment is rejected for good reasons after inquiry, but the family situation requires strengthening in other ways, the Department or the Court has not discharged its responsibility until its social investigators through their own efforts or in cooperation with the community's voluntary or official agencies have made sure that these other phases of the situation will be met. If the children are committed, the public interest in the rehabilitation of the home is still more direct. Whatever conditions made the commitment necessary—the lack of the power of self-maintenance—must be removed before the children can be returned. Otherwise the work of the Department and the Court with the children will be wasted. To discover just when its disabilities have been overcome, so that the children can wisely be returned, is as elementary an obligation as the commitment when that is necessary.

Cooperation among charities, like all relationships, is a process of give and take. As long as social work is in a tentative stage, there will be different standards in different agencies, different ways of meeting similar problems. The response of other organizations for cooperation will not always be what is expected. Demands upon an organization may exceed its financial resources or its legal powers. Its experience, with the full force of which other agencies are unfamiliar, may dictate policies which at first sight seem unreasonable. One cannot expect others, however, to concede the validity of his experience in his own field unless he makes a similar concession to them. Those who attempt to cooperate with other agencies, as all social workers must, may well consider in this connection those factors which make any human relationships run smoothly and with satisfaction to those concerned.

*Some factors in successful social work.* In social work, besides these general considerations, there are others of practical value in relations with other organizations. Personal acquaintance with workers in other organizations makes results possible where correspondence and telephone communications alone do not. Knowledge of the charitable resources of the city and one's district should include such acquaintance. Definite suggestions as to the sort of action which a given situation requires are better than general requests for cooperation. This implies a thorough knowledge of one's own case and of the point in a plan of treatment at which the cooperating agency can enter. Negotiations with other agencies should go far enough to enable all parties to understand one another. Plans involving several organizations may well be worked out in conference. A situation should never be left indefinite. There must be agreement on some plan of work in which all concerned, including the family itself, have a definite part.

The following considerations lie at the basis of good social work :

1. Action should not be confined to the particular request which an applicant makes. The aim should be to meet the actual needs and, when possible, to bring about the self-dependence of the family or individual, with all that this implies.
2. A plan for relief involves a foundation of facts gained through a careful investigation. This investigation involves the use of certain definite sources of information, including the family itself, in order to understand both its disabilities and its assets.
3. To carry out the plan usually involves the use of other agencies in a definite arrangement for cooperation.<sup>1</sup>

<sup>1</sup>The "Family Welfare Society of Boston" (formerly the "Associated Charities") states its aims to be:

1. To promote sound family life, by helping families and individuals to overcome their difficulties and find opportunities for development; by emphasizing health, education, industry, recreation, and character as essential elements; by encouraging thrift, initiative, and responsibility within the family group.
2. To relieve distress.
3. To encourage sympathetic and understanding service by volunteers.
4. To foster joint effort in social work.
5. To interpret social facts so as to lead to improvement of conditions, through an aroused public consciousness.

On the subject of private agencies of relief and family social work see Frank D. Watson, *The Charity Organization Movement in the United States*.

96. SOCIAL CASE WORK AS PERSONALITY DEVELOPMENT<sup>1</sup>

Let me make the broadest generalization about social case work that I can. Its theories, its aims, its best intensive practice all seem to have been converging of late years toward one central idea; namely, toward the development of personality. What does this term imply when the social worker uses it?

A Scotch metaphysician of the eighteenth century wrote, "When a man loses his estate, his health, his strength, he is still the same person *and has lost nothing of his personality.*" Few social workers would agree with the italicized portion of this sentence. Loss of social status and health, if at the same time it revealed untapped resources within and without, might possibly develop a man's personality, but could hardly leave it unchanged. In fact, such losses cripple personality far more often than they strengthen it. If for personality Thomas Reid had substituted individuality, few would differ from him. Without attempting any close analysis of the many varied and technical uses of these two words by biologists, psychologists, and others, there is a serviceable distinction between them which has long been recognized and one which ought not to be lost sight of. If we accept that definition of individuality which limits it to "the uniqueness of a living being, or its difference from others of its kind and from the rest of nature,"<sup>2</sup> then personality is the far more inclusive term, for it signifies not only all that is native and individual to a man but all that comes to him by way of education, experience, and human intercourse. Our physical heredity, our innate qualities transmitted and unalterable are individual, but all that portion of our social heritage and our environment which we have been able in day by day living to add to individuality and make a part of ourselves is personal; and the whole becomes our personality.

<sup>1</sup>From *What Is Social Case Work?* (pp. 90-93, 97-99, 255-260), by Mary E. Richmond, Director of the Charity Organization Department, Russell Sage Foundation. Copyright, 1922, by the Russell Sage Foundation.

<sup>2</sup>Century Dictionary. In the sentences immediately following I may seem to overemphasize the width of the separation in meaning between "individuality" and "personality" by holding the use of the former to very narrow limits. It did not seem wise, however, in so non-technical a discussion to introduce the third word "temperament," now often used by psychologists for innate make-up, but having a different connotation for the general reader.



In other words, it is our personality which relates us closely to our human kind; not only to the socius our brother, but to all the communities and institutions he has developed. There is no conflict between the idea of individual differences, about which I shall have something to say later,<sup>1</sup> and this complementary idea of relatedness. Difference is as characteristic of personality as of the tone colors in an orchestra, but the differences between personalities, no two of which are alike, also resemble those of orchestral instruments in that they are attuned and related differences. While a man's individuality does not change, his personality, which includes both his native and acquired qualities, is forever changing. If it does not expand and grow from day to day by full exercise of function, it contracts and even atrophies.

It is true that social case work has dealt and will continue to deal with questions of restoration to self-support, with matters of health and personal hygiene, as well as with the intricacies of mental hygiene, and that each of these things has a direct relation to personality. But, in so far as each is a specialty (some are specialties demanding quite other forms of professional skill), social case work will be found to be coterminous with none of them, but to have, in addition to its supplementary value in these other tasks, a field all its own. That field is the development of personality through the conscious and comprehensive adjustment of social relationships, and within that field the worker is no more occupied with abnormalities in the individual than in the environment, is no more able to neglect the one than the other. The distinctive approach of the case worker, in fact, is back to the individual by way of his social environment, and wherever adjustment must be effected in this manner, individual by individual, instead of in the mass, there some form of social case work is and will continue to be needed. So long as human beings are human and their environment is the world, it is difficult to imagine a state of affairs in which both they and the world they live in will be in no need of these adjustments and readjustments of a detailed sort.

To state this in a more formal way is to arrive at my tentative definition: Social case work consists of those processes which develop personality through adjustments consciously effected, individual by individual, between men and their social environment.

<sup>1</sup>Mary E. Richmond, *What Is Social Case Work?* pp. 144-153.—ED.

What do we mean by "social environment"? The dictionary defines environment as "the aggregate of surrounding things and conditions,"<sup>1</sup> but when we put "social" in front of it, it becomes evident at once that many persons and things have been excluded and many substitutes included; the environment ceases to be environment in space merely—it widens to the horizon of man's thought, to the boundaries of his capacity for maintaining relationships, and it narrows to the exclusion of all those things which have no real influence upon his emotional, mental, and spiritual life. A physical environment frequently has its social aspects; to the extent that it has these it becomes a part of the social environment.

Examples of social case work show that, by direct and indirect insights, and direct and indirect action upon the minds of clients, their social relations can be improved and their personalities developed.

Insights imply a knowledge of innate make-up and of the effects of environment upon the individual. The failure of a case worker to learn his client's social and personal background usually means failure to effect any permanent adjustment, but these diagnostic processes interplay with those of treatment, and no sharp line can be drawn between them.

Action ranges from the humblest services, guided by affection, patience, and personal sympathy, to such radical measures as complete change of environment, the organization of resources where none existed before, and the reknitting of ties long broken. Officialism is to be avoided. The most successful case work policies are encouragement and stimulation, the fullest possible participation of the client in all plans, and the skilful use of repetition. Sometimes there must be warning and discipline; always there must be direct action of mind on mind. One of the most characteristic methods of case work is its many-sided approach, its assembling, binding together, and readjusting processes. The social case worker is not, however, a sort of benevolent middleman. It is true that he acts through other specialists, other agencies, and through his client's own social group, but, in bringing people together, he is far from washing his hands of the consequences of the contacts effected; on the contrary, he is deeply concerned to discover, with all these others, a joint program which shall achieve the desired social result. It is the combination of all

<sup>1</sup>Century Dictionary.

these enumerated services, or of most of them and not of any one or two, which constitutes social case work of professional grade.

No case worker is bound to accept the philosophy of any other, but a philosophy of some kind he must have. The foundation stones of such a philosophy are suggested in this book; they are given, however, with the fullest realization that other and even more fundamental ones may soon be revealed. These suggested foundations, to restate them informally, are as follows:

1. Human beings are interdependent. There is a spiritual unity about this conception which means a great deal to those who have grasped its full meaning and are trying to live by it. Professor MacIver tells us that "society is best ordered when it best promotes the personality of its members." The converse is also true. We achieve personality through right relations to society and in no other way. The art of social case work is the art of discovering and assuring to the individual the best possible social relations.

2. Human beings are different. A genuinely democratic social program equalizes opportunity by intelligent mass action, and provides at the same time for an administrative policy which does different things for and with different people.

3. Human beings are not dependent and domestic animals. This fact of man's difference from other animals establishes the need of his participation in making and carrying out plans for his welfare. Individuals have wills and purposes of their own and are not fitted to play a passive part in the world; they deteriorate when they do.

Perhaps this is why men and women who are to become assets to society must have had a careful preparation for that network of interrelations which we call life. They cannot be turned out at wholesale. In recognition of the fact that the making of a social person takes time and detailed attention, the home is the social institution to which is usually entrusted the beginnings of this task, and it is in the home that the first case work adjustments were attempted. The workshop is another place in which the case work method is destined to effect beneficent changes, though its introduction there is recent and not yet fully developed. Wherever case work becomes a serviceable adjunct of some other and older profession, as in the social institutions of the school, the hospital, and the court, it is even more important than elsewhere that its practitioners should be thoroughly

grounded in their own specialty before attempting to supplement the work of other specialists.

The whole of social work is greater than any of its parts. All parts serve personality, but in different ways. Case work serves it by effecting better adjustments between individuals and their social environment; group work serves it by dealing with people face to face but no longer one by one; social reform serves it by effecting mass betterment through propaganda and social legislation; and social research serves personality by making original discoveries and re-interpreting known facts for the use of these other forms of social work. The case worker should know something of all forms—the more knowledge he has of all the better—and should carry through his special task in such a way as to advance all of the types of social work just enumerated.

Finally, the highest test of social case work is growth in personality. Does the personality of its clients change, and change in the right direction? Is energy and initiative released, that is, in the direction of higher and better wants and saner social relations? Only an instinctive reverence for personality, and a warm human interest in people as people can win for the social case worker an affirmative answer to this question. But an affirmative answer means growth in personality for the case worker himself. The service is reciprocal.

### 97. EXAMPLE OF CASE WORK IN WHICH "RELIEF" IS NOT INVOLVED<sup>1</sup>

The D's were a Cuban family who had been in this country less than five years. The family consisted of Mr. and Mrs. D and five children, the oldest a boy of fourteen, the youngest a girl of six; twin girls of eleven and an eight-year-old boy completed the family.

Financial need did not figure in this problem, and yet the society was able to render most definite and valuable service during its sixteen months' contact with the family.

The case was referred to the society for attention to Josey, the eight-year-old boy, who was unruly and troublesome, always in mischief, the leader among boys younger than himself. The society's visitor learned that Josey had been run over by an automobile a year before her acquaintance with the family, and had undergone an opera-

<sup>1</sup>From "Relief Not Needed," *The Family*, Vol. I, No. 3 (1920), pp. 16-17.



tion during which a small bone had been removed from his head. At the time of the operation the doctors had assured Mr. and Mrs. D that there would be no bad after-effects; his bad behavior, however, dated from the time of this accident. The other children were normal and attractive.

A thorough mental and physical examination revealed the fact that Josey's condition was not abnormal, but that the operation had left his brain in an extremely sensitive state and that his difficulties were probably due to bad environment. Special care was recommended, and through the society Josey was placed in a boarding home for boys outside of the city where he would be under the best influences and would have the additional advantages of a private school training; his board was paid from the compensation fund paid to the D's at the time of the automobile accident. Josey responded amazingly to this treatment; he became quiet and tractable and at the end of a year was able to return to his family.

In the meantime the society had offered a number of opportunities to the D's which the family had not failed to grasp and which materially benefited their condition. Mr. D, when a youth in Cuba, was trained to be both a cigar-maker and a carpenter; and he entered the cigar-making trade when he came to this country, because his lack of knowledge of English made it impossible for him to follow the carpentry trade. When the society learned these facts they encouraged Mr. D to attend night school, where he learned English; and later they secured a position for him as carpenter, the wages in that trade far exceeding those paid in cigar-making and the health conditions being very much better. The family were encouraged to move to a better house and neighborhood, situated conveniently near to Mr. D's place of employment. Under the society's care the health of Mrs. D (who had a tendency to tuberculosis) and of the children, who were anemic and run down, was greatly improved through their availing themselves of clinical care; and the twins were connected with a settlement house where music lessons were given at the reasonable rates Mrs. D could afford to pay. In short, the entire family was materially benefited through its contact with the society.

This family furnished good material with which to work, though they were of a type which might have been considered above the average and capable of looking out for themselves. Mr. D was in-

telligent and industrious, fond of his family, and anxious to do well by them; Mrs. D was an unusual mother, devoted and self-sacrificing and wholly wrapped up in her children's happiness; the children themselves were normal and affectionate, and with the exception of Josey were the pride of their teachers. Yet given all of these qualities, this family stood in need of certain definite lifts which the society was able to give to them.

Josey would probably have developed into a headstrong youth and a bad man had the opportunity for suitable training and development been denied him; and the D's had the necessary funds with which to pay for this but lacked the knowledge of how to secure it. The father would probably have stuck to his poorly paid cigar-making, and the family health might have suffered serious collapse save for the kindly oversight and skilled advice of the society's visitor.

This then is an illustration of case work. By means of it, much of good was accomplished for the D family. Without it the family would have been left in the same condition they were in when first known to the society. Josey, the eight-year-old boy, would have been in an infinitely worse condition, for as he grew older his difficulties would have multiplied and he would probably have turned into an unruly youth and a bad man.

The evidences of case work in this story are as follows:

1. The discovery of Josey's early injury.
2. His mental and physical examination.
3. The placing of Josey in a home.
4. The visitor's discovery of the fact that Mr. D had learned a second trade.
5. The helping of Mr. D to better paid employment.
6. The encouraging of the D's to move to a better house and neighborhood.
7. Medical care secured for the whole family.

How easy it would have been for an overworked secretary to give this family little or no attention because of the fact that they were not in financial need! There is little chance that twenty-five years ago the D's would have received any considerable benefit from contact with a family society, or associated charities, as it would then have been called. As a matter of fact, there are many societies today where only the crudest measures are taken to help applicants—no verifica-

tion of the applicant's story, no inquiry into the real circumstances of the case, no effort to discover the underlying causes of the family's difficulties, and treatment limited to a two-dollar grocery order or a pair of shoes to the man, woman, or child who comes to the office and asks help.

## 98. INDIVIDUALIZATION<sup>1</sup>

Three words—relief, prevention, and promotion—express the changing emphasis in social case work. As long as relief was regarded as an end in itself the "applicant for charity" was sometimes branded as "worthy" or as a "fraud" or "fakir," but little attention was given to his personality. The acceptance of prevention as one of the aims of social work led to greater consideration of the individual, but it remained for the more recent emphasis upon promotion to bring about general recognition of the vital importance of personality.

Social case work is the effort to promote opportunity and incentive for the development of the best capacity of the individual in relation to the family and the community. The family is the unit but each member of the family must be dealt with as an individual having definite privileges, duties, and responsibilities in relation to other members of the group. Assent to this definition of case work carries with it acceptance of the fundamental importance of individualizing each client. "To promote" connotes the attempt to secure action by another. The promoter knows that individuals, being different, will not respond in the same way to the same stimulus. The promoter is most successful who best understands the persons with whom he deals and adapts his approach to the peculiar characteristics of each. An "opportunity" for one man may be a hardship for another, and an "incentive" for one may act as a deterrent for another. So, also, each individual differs from every other in "capacity" and in his responsibilities toward his "family" and "community." Case work is based upon individual differences and cannot be done successfully without an understanding of the capacity, experience, ideals, and motives of each client.

<sup>1</sup>By Stockton Raymond, General Secretary of the Family Welfare Society, Boston, Mass. From "The Individualization of the Different Members of the Family: The Individualization of the Parent," *Proceedings of the National Conference of Social Work*, pp. 258-261. Copyright, 1922, by the National Conference of Social Work.

An individual is the result of his heredity and of every experience which he has encountered. The product—personality—is in constant process of modification, due to the continuous and ever changing circumstances and relationships which focus upon the individual. Intelligence and physical capacity, the natural resources of personality, may be developed or exploited according to the influences to which the individual is subjected and his response to them. In the process of individualization it is of the greatest importance to determine, through mental and physical tests, the intelligence and physical condition of the individual. If case work seeks to develop the "best capacity" of the individual the knowledge of capacity, both mental and physical, is a prerequisite to any plan of action.

But under conditions of modern life good intelligence and sound physique do not necessarily insure the presence of such qualities as love, truth, honor, courage, kindness, industry, generosity, honesty, duty, and responsibility. Thus, an individual may test "poor" in memory, yet because of a high sense of responsibility may forget fewer things in connection with his work than another having a better memory but less sense of responsibility. So, a man may have high intelligence and yet develop anti-social conduct. In the effort to understand personality—to individualize—these less tangible qualities must be given due consideration. They reveal personality to a far greater degree than does an array of facts about past acts of the individual. These qualities of spirit, together with such instincts as appetite, sex, curiosity, fear, acquisitiveness, play, and competition are the forces which motivate the individual and must be understood in order to deal with him.

Lucius E. Wilson, of the American City Bureau, says that in the growth of a city the spirit of its inhabitants counts for more than its natural resources. It is equally true that the spirit of an individual often counts for more than his native intelligence and physical powers. To illustrate: I once knew a man with good intelligence and splendid physique who was a candidate for a college football team. He was fast on his feet and could kick the ball in practice regularly from fifty to sixty yards, and yet in a contest he proved useless and did not make the team. In contrast to this man is another of whom I was told by a former Cornell coach. This young man was slight in build, lacking many of the physical qualifications which are generally supposed to be



necessary for a football player. Through constant practice and by conscientiously following the advice of the coach, he eventually became a star player. In one game the Cornell team was pushed back to the shadow of its own goal posts. A long kick was necessary to save the day. Standing behind his own goal line, this young player received the pass from the center and kicked the ball farther than he had ever kicked it before in his life. Just as in football, something more than intelligence and a sound physique is necessary for the game of life.

Spirit and ideals are closely related. The ideals of an individual are the roots of his spirit. They represent the progress of the individual, as a rational being, beyond the absolute control of blind instinct. The social case worker, conscious of the significance of ideals in the development of personality, must build upon the ideals of his client and infuse new ones as the occasion and opportunity arises. At the same time he must insist upon greater emphasis upon ideals in the education and training provided in the home, at the school, and through the church. Ideals instilled through careful training may be proof against even the most adverse surroundings. It is equally true that the whole course of a life may be altered by the power of an ideal. Whether or not we like Billy Sunday and his methods it is a fact that he is able to reach men in such a way as to alter their conduct. This he does by gripping their minds with a vision of a future worth effort to attain. Billy Sunday knows that a strong motive is necessary to induce the effort necessary to change the habits of a lifetime. His success in dealing with men is due to his ability to instil ideals and to reach motives strong enough to bring about action in accordance with ideals. The social case worker, in the effort to promote opportunity and incentive for the development of the best capacity of the individual, must give more consideration to ideals and motives. The mind is the man. Any real understanding of the inner man—the personality—depends upon an understanding of his mental processes. There is a constant conflict in every individual between his ideals and his baser desires. Physical, as well as mental elements, are involved, since they are reflected in the strength or weakness of the contending forces. The conflict is one of the motives, with victory on the side of those which, for the time at least, prove the strongest. The struggle is often decided by the introduction of new factors. The temptation

of a man to take a pocketbook may be terminated by the appearance of the owner. A book, the advice of a friend, or almost any other incident, may prove to be the determining factor. If motives are understood it is often possible for the social worker to strengthen ideals or weaken opposing forces. Obviously, individualization requires an understanding of the motives of the client, without which the social worker cannot hope to deal successfully with him.

Dr. R. R. Reeder, years ago in his book *How Two Hundred Children Live and Learn*, explained the principle of motivation. He believed that any normal person will respond if the right incentive is provided. Dr. Reeder illustrates his principle by the following story: The children's home at Hastings-on-Hudson was organized on the cottage plan. The children in each cottage, under the direction of the cottage mother, did most of the work, including washing and wiping the dishes and setting the table. In several of the cottages the children had become careless and many dishes were being broken. The problem was to find a motive which would insure greater care and prevent breakage. Dr. Reeder knew the pride of the children in the appearance of their cottages. He decided upon a definite quota of breakage for each cottage and told the children that all over that amount would be replaced by tinware, which they knew would spoil the appearance of the cottage, and, at the same time, be a badge of their carelessness. Breakage in excess of the quota ceased at once. A motive sufficient to insure care in the handling of the dishes had been found.

The desire for success—for recognition—is one of the most compelling motives of men. Whiting Williams is authority for the statement that the promotion of a common laborer to be an oiler means vastly more to him than is represented by the increase in the compensation which he receives. Each man is fighting for his place in the sun. As long as he continues to fight success is possible. But sometimes a man quits fighting, and, accepting failure, asks to be supported in it. The first task of the social worker under such circumstances is to again arouse the fighting spirit. Fortunately, most everyone keeps on fighting until he thinks he is up against a stone wall. If a way through or around can be found he will make another effort. Social case work seeks to help the discouraged client to find a way to overcome his immediate difficulties in such a way as to pro-

mote the development of his personality. It is vastly better to provide opportunity and incentive for the client to do things for himself than to do things for him, and, indeed, most of the things worth while cannot be done for others. If a man is sick he may be given the opportunity and incentive to get well but usually he and he only can do the things necessary in order to recover his health. Likewise, if a man is overweight he may be given the opportunity and incentive to reduce, but no one else can either diet or exercise for him. The social case worker should keep constantly in mind that his aim is to promote the development of personality. Petty details must be kept subordinate to that end. The client must be led to assume responsibility rather than be released from it. His native intelligence and physical resources must be conserved and developed, his experience known, and his ideals and motives understood, in order that opportunity and incentive may be provided which will promote the development of his best capacity in relation to his family and his community.

The following case story shows how a social worker, understanding the personality of her client, helped him to regain his ideals and to strengthen them until they were able to win the struggle against selfish desires:

When the family first came to the attention of the worker the man was drinking and failing to support his wife and four small children. The wife was ill, the children undernourished, and the older ones out of school for lack of clothes. The worker secured the usual information from the wife and followed up a number of outside clues. It was soon established that the intemperance of the man was one of the big factors to be dealt with. Apparently of good intelligence and physical capacity, he had, in the early days of his married life, shown pride in and affection for his family, but, being thrown into the companionship of drinking men, he had allowed the habit to get the better of him. Persistence was required in order to arrange for a talk with him. This, however, was finally accomplished and the worker led him gradually to face the facts. She showed him how his conduct was affecting his wife and children and appealed to his pride and to his affection for his family. The man talked but little, and the worker was not sure what had been accomplished by the interview. The next day, however, he sought her at the office and talked unreservedly with her. He said that the night before, after the interview with the worker, he had gone home and had seen the facts in their true light for the first time in several years. He understood how his conduct was affecting his wife and children. He could see himself almost as a murderer, for he realized that his wife's physical condition was

the result of his neglect. He saw, too, that he was to blame for the condition of the children and for the older ones being kept out of school. He acknowledged that drink was the real cause of the difficulty, but declared that from that time on he intended to do his part by his wife and children and that he was ready to prove by his conduct that he cared for them. Having faced the facts squarely, the man was ready to do what he could to remedy the situation. The family lived in a license community but in a local option state. The social worker and the man finally agreed that the best plan would be for him to find work at his regular employment in a no-license community. This would take him away from his present companionships and from the constant temptation to drink. He agreed to send all his wages home except the part absolutely necessary for his expenses, and the social worker promised to see to it that the wife and children had the medical care they required, and the help and encouragement they needed in making a new start. The wife entered enthusiastically into the plan. She had faith that it would work and was willing to do her part. Through the help of the family agency in a no-license town the man found a good job, and sent the major part of his wages home to his family. After three months, during which the man kept straight and the condition of the wife and children was greatly improved, the family was reunited in the community where he was working. The social worker still hears from both the man and woman, who are now respected members of the community in which they live. The experiment was no doubt a dangerous one, but the worker counted upon the man's intelligence, upon his real affection for his family, and upon his being away from the temptations and associations which had caused his downfall. In this case it was possible to provide opportunity and to arouse motives which were sufficient to bring about determined effort to overcome difficulties.

In the individualization of the parent, then, the social worker must make sure to know him as well as about him. To individualize requires a knowledge of heredity and past experience, but it is equally important to understand his ideals and motives. Only as the social worker individualizes the inner man, in the light of an understanding of his mental and physical capacity, past experiences, ideals, and motives, is it possible effectively to provide opportunity and incentive for the promotion of his best capacity in relation to his family and community.



## CHAPTER XXVII

### SPECIAL PROBLEMS AND CONTEMPORARY POLICY FOR CONTROL

#### 99. MALNUTRITION AMONG SCHOOL CHILDREN<sup>1</sup>

*Statement of the problem.* The proper physiological, mental, and moral development of children is one of the most vital concerns of the nation. Stunted physical growth retards the normal unfolding of facultative functions and is a danger signal to the body politic. Malnutrition is one of the most potent factors hindering the normal course of a child's development. Although distinctly a pathological entity, malnutrition is not a disease but a morbid physical condition. It may be symptomatic of definite systemic disease such as tuberculosis, cardiovascular or digestive disturbances or it may be the only evidence or result of defective metabolism or of complex and divers physiological and environmental conditions.

Insanitary surroundings, improper habits of life, lack of sleep, and unsuitable food, all oftentimes due solely to ignorance, may be responsible for just as much malnutrition as is caused by poverty and disease. Whatever its causes, malnutrition is a social menace as it hampers the natural development of the functions of mind and body and predisposes its victims to permanent life handicap. Insofar as malnutrition is due to environmental causes it invariably lends itself to successful treatment. Every effort should be made to combat it among children. The prevention of malnutrition is a distinct public health function.

*Statistics of malnutrition.* Various studies have been made in an endeavor to gauge the prevalence of malnutrition. Some were based on the relation of weight and height of the children without reference to age; others took the age factor into consideration; and still other

<sup>1</sup>By the Public Health Committee of the New York Academy of Medicine. From the *Medical Record*, February 23, 1918. Copyright, William Wood and Company, New York. The report was prepared by E. H. Lewinski-Corwin, Ph.D.

estimates are based on purely symptomatic evidence without relation to weight. The various studies made in this country and in England indicate that on the average at least 10 per cent of our boys and girls in the elementary and grammar schools show the well-recognized symptoms of malnutrition.

The results<sup>1</sup> of physical examinations of twenty-one hundred and sixty-nine children of England, outside of the City of London, show that 16.3 per cent of the children examined were found to be sub-normal with regard to the state of their nutrition. The high percentage of malnutrition is the more striking since the larger proportion of the children examined came from rural districts where the standard of nutrition among children is, on the average, higher than in cities.

The problem of malnutrition among school children has received very serious consideration on the part of the school medical authorities of England. Since 1907 the school medical inspection in England has been carried on in a systematic way. The procedure as well as the reports is uniform, in this way facilitating comparative studies. A summary of the physical examinations is given annually in the report of the Medical Officer of the Board of Education.

Many cities in Great Britain also have made intensive studies of the problem of malnutrition in its various bearings. Dunfermline, Scotland, was the pioneer in the movement and the practice of recording the nutritional condition of each child upon examination has been followed throughout England. The classification adopted is rather arbitrary and lacks precision. It segregates the children into four groups and designates their nutritional state as: (1) Excellent, (2) Normal, (3) Below Normal, and (4) Very Bad.<sup>2</sup> The application of this scale, imperfect though it be, has helped to bring out certain important aspects of the problem and to center the attention of the medical inspectors on the nutrition of the school children.

In his comprehensive analytical study of the *Health and Physique of School Children*, which comprises eight hundred thousand English children, Arthur Greenwood, of the School of Economics of the University of London, points out that the estimated 10 per cent of the school children of England suffering from malnutrition is undoubtedly a very conservative figure. From one-sixth to one-fifth of the children

<sup>1</sup> Report for 1915 of Chief Medical Officer, Board of Education, London, 1916.

<sup>2</sup> 14.8 per cent were "below normal" and 1.5 per cent "very bad." — Ed.

would probably be found to be suffering from some degree of malnutrition if a uniform standard of gauging the condition were established.

Where the percentage of ill-nourished scholars is very low, it seems that the standard of nutrition adopted has been somewhat low, and that, taking the country as a whole, not merely 10 per cent, but probably a number approaching 20 per cent show perceptible signs of malnutrition.

*Conditions in New York City.* The condition of malnutrition among the school children of New York City is not different from that prevailing in England as far as the available data indicate. The proportion of children discovered to be suffering from malnutrition has increased as the attention given to that condition by the medical inspectors has become more pronounced.

Beginning in December, 1915, the Dunfermline classification was applied to New York City and the nutritional condition of each child was recorded upon physical examination. Immediately the percentage of cases falling into groups 3 and 4 of the Dunfermline scale increased almost threefold. About 16 per cent of the children were found to need either supervision or medical treatment. For the first nine months of the present year the per cent of malnourished was put down as 10. On the basis of this lower figure there are, in New York City, over a hundred thousand elementary school children in need of attention on the score of under-nourishment.

Both the Health Department and the Association for Improving the Condition of the Poor of New York City consider 10 per cent an underestimated and very conservative figure by which to be guided. Here, as in England, it is a common practice among school physicians to consider malnutrition as a relative condition. That is to say, in examining children of a certain school the physicians consciously or unconsciously take the average of the school as a standard and accordingly divide the children into four groups. In the schools located in the poorer districts of the city it may happen that virtually all the children suffer from some degree of malnutrition. Yet grades 1 and 2 show relatively the same percentage as in the schools in the better sections of the city where the majority of the children are fairly robust and well nourished.

The diagnosis of malnutrition in the New York public schools is made entirely without reference to the relation of weight to age

of the children. The rules of the Bureau of Child Hygiene specify that in recording health conditions of school children weight should be taken into account, but with few exceptions our public schools are not equipped with scales. The only schools supplied with scales are those which maintain fresh-air classes. The scales are invariably located in the open air classrooms and are not readily accessible. Moreover, they have not been adjusted for many years and are not used in conjunction with the routine physical examinations. All malnutrition records, therefore, must of necessity be based exclusively on the well recognizable clinical symptoms. In this connection it may be of interest to quote from a recent article by Mr. Frank A. Manny of the Association for Improving the Condition of the Poor, relating to a series of examinations of the same group of children made independently by three physicians. He says that although "ordinarily nutrition is one of the least agreed upon of defects, the results showed greater agreement than in the case of bad teeth even, and much greater unanimity than was given to tonsil and nasal breathing defects." As was to have been expected, the agreement was more pronounced in the cases of defective nutrition than in the superior nutrition group.

It is a pity that the lack of equipment prevents the school medical inspectors from registering the weight and height of the school children. These measurements, when properly and scientifically correlated with age, nutritional and other conditions, would supply us with a vast amount of instructive and valuable knowledge. The existing tables of the relation of weight and height to age are either obsolete, as is the Bowditch scale, or based on measurements of children of certain social groups, such as Baldwin's study of pupils in private schools. The Boas scale is, for the time being, the most serviceable as it is a combination of several scales. It is based on a larger number of measurements than any other scale and is more adapted to a cosmopolitan community like New York City, for it takes account of various racial stocks.

*Causes of malnutrition.* The causes of the large prevalence of malnutrition among school children can be divided into two groups: external and intrinsic. In the first group would come unpropitious environment, poverty, ignorance, and bad domestic management; in the second would fall digestive, respiratory, and circulatory disablements and also those arising from bad heredity.



*Environmental causes.* The unhygienic mode of living in many of the families among the uneducated classes, together with an utter ignorance of proper dietetics, are in a large measure responsible for the devitalization of the children. In many homes the children are given tea, coffee, and beer and the general diet is not properly balanced. They eat at irregular hours and do not masticate the food properly. They do not have proper supervision, getting to bed late and sleeping in ill-ventilated rooms. In the 1916 Report the General Medical Officer of the Board of Education of England draws attention to "the ill effect of too little sleep on the nutrition of the child," and states that some school doctors consider that "the Daylight Saving Act has operated injuriously in this respect by reducing the sleep of children in some places by approximately one hour."

Usually, but by no means always, these conditions are associated with poverty which is thus alone held responsible for the phenomenon of malnutrition, while in reality malnutrition has many more than this one origin. It is undoubtedly true, however, as the various careful studies of workingmen's budgets and standards of living show, that the average earnings in the large majority of these families are insufficient to insure a proper standard of life. Robert Coit Chapin's study of two hundred and eighty-seven typical New York workingmen's families with from two to four children under sixteen years of age, the earning capacity of which varied from \$600 to \$1000 per annum, showed that 24 per cent of these families were underfed, 53 per cent were overcrowded, and 15 per cent were both underfed and overcrowded. A recent and comprehensive study by Streightthoff showed that only 30 per cent of the male workers over sixteen years of age, employed in manufacturing, mining, trade, and transportation, were earning between \$626 and \$1044, while 60 per cent fell below it and 10 per cent rose above it. Assuming that the nutritional conditions in families with an income of less than \$626 are not worse than those found in the Chapin group earning from \$600 to \$1000, the number of children who, because of economic conditions, fall below the normal nutrition standard must be very considerable. Wages have risen since the data for the above studies were gathered, but the rate of increase of the cost of food and other necessities has measurably outrun the rise of the wage schedule. However plausible the connection between low economic status and undernourishment may be,

scientifically established proof is lacking of the casual relation between the two.

Several years ago at the International Congress on School Hygiene, Dr. I. O. Woodruff presented the results of a careful study of the problem in connection with the children in the fresh-air classes of New York City, which was undertaken in co-operation with the Committee on the Prevention of Tuberculosis of the Charity Organization Society. "The study of the home conditions," to quote the report, "has failed to show that either poor economic or hygienic conditions are a potent factor in determining either the degree of malnutrition and anemia or the progress of the child in the fresh-air class."<sup>1</sup> The conclusion of the study was that until more scientific evidence has been established malnutrition will have to be considered "as due either to individual susceptibility or to some other factor not yet determined." Families having the same income and the same number of children vary greatly in their nutritional state. Ignorance and bad domestic management, which frequently prevail among those having low incomes, as well as bad habits of living, have indubitably a great deal to do with the existing nutritional debilities.

Within the last few years England has shown an appreciable improvement in the degree of nutrition of the children, as indicated in the diminished need of school feeding, which is accounted for by the improvement in the economic status of the wage-earning population. The Chief Medical Officer of the Board of Education of England and Wales attributes this decline to the fact that "there was a great increase in wages associated with the rapid increase in employment. In due time this pronounced social change reflected itself in the homes of the people and in the feeding and clothing of the children. The evidence from school doctors and the Board's medical inspectors in all parts of the country is to the effect that in 1916 the children were, on the whole, better fed and better clothed than at any time since medical inspection was introduced." This would argue that poverty has a very distinct and direct bearing upon the malnutrition of children. The good showing for the last two years in England is still more striking when one considers that there has been a shortage of food-

<sup>1</sup>"Fresh-air Schools in New York City. A Comparative Study," *Transactions of the Fourth International Congress on School Hygiene*, Vol. II, 1913, pp. 88-89.

stuffs in the country, and also that a very large number of mothers have been engaged in industrial and other pursuits. Jointly with the possibilities of education in hygiene, it holds out great hopes for future successful results in combatting the evils of malnutrition among school children.

*Housing.* Housing is another physical element which is frequently spoken of as having a bearing on the growth of children. It is exceedingly difficult to establish a direct correlation between housing and malnutrition, as the housing influence cannot easily be separated from the other conditions which accompany it. Congestion is usually associated with a number of other unpropitious circumstances. Similarly, spaciousness of home usually means higher economic and other standards. The factor of housing cannot be dissociated from the accompanying conditions and it is therefore impossible to gauge its single influence accurately.

Dr. William Leslie Mackenzie and Captain A. Foster, in their study of the physical condition of 72,857 children attending the public schools of Glasgow, Scotland, made a number of interesting observations regarding the effect of housing on the physique of the children, which throws a light on the possible relationship. They found, for instance, that the average weight and height of children between the ages of five and eighteen years varied with the spaciousness of the home, as can be seen from the following table:<sup>1</sup>

NUMBER OF ROOMS IN HOUSE	BOYS		GIRLS	
	Weight, Lbs.	Height, In.	Weight, Lbs.	Height, In.
1 room	52.6	46.6	51.5	46.3
2 rooms	56.1	48.1	54.8	47.8
3 rooms	60.6	50.0	59.4	49.6
4 rooms	64.3	51.3	65.5	57.6

*Intrinsic causes.* The second group of causes—intrinsic—are either entirely unrelated to or only partially dependent upon the external causes. Some of the debilitating factors, such as chronic absorption from diseased tonsils, decayed teeth, or obstructed nasal

<sup>1</sup>One must beware of argument *post hoc ergo propter hoc*.—Karl Pearson has ably criticized these figures in *Social Problems: Their Treatment, Past, Present, and Future*. Dulau and Co., London, 1912.—Ed.

breathing, can easily be remedied, as can also some respiratory or digestive disturbances.

There is however another group of factors arising from some obscure disease or physical defect which cannot readily be alleviated. Then, too, the influence of heredity must be considered in making provisions and plans for meeting the malnutrition problem in a medical way.

*Agencies dealing with the problem of malnutrition. Clinics for malnourished children.* The group of children who suffer from malnutrition as a result of bad habits of living or a deficiency of proper food is of considerable size. The children in this group present all the symptoms of malnutrition and yet suffer from no definite clinically recognized disease. With them diet is the main thing at fault. Several of the clinics in New York have recognized this fact and endeavored to deal with these children in the way best fitted to meet their condition, namely, through the education of the parents or guardians as to their needs. The results of the educational efforts have been very encouraging.

The group method of handling these cases seems to be the most successful and economical, and by a more general extension of it in the dispensaries of the city beneficial results can be obtained in a very large number of cases. By exhibits and spoken word the parents are instructed in the proper care of children and in their dietary needs and the response is gratifying in the majority of instances. This suggests the desirability of having parents present at the schools when the school medical inspectors make the physical examinations of the children. The educational value of the physicians' instructions cannot be overestimated and the success of such a procedure has been fully demonstrated in England in connection with medical school inspection. In England, where from 70 to 80 per cent of the parents attend the physical examinations, this practice has been one of the most effective means of health education and has brought the desired results in many instances. A similar practice of insisting upon the parent's presence during the examination by the school doctor would be very desirable in our school medical system.

*Fresh-air classes.* The fresh-air classes have been going through the experimental stage for a number of years and received special impetus in 1915. While there were 726 children receiving instruction in these classes in 1914-1915, the number increased to 1830 in the



following year, 1915-1916. In view of the fact, however, that there are only about seventy-five of these classes in the greater city, the number of children receiving treatment at the present time constitute only a small percentage of those whose condition would warrant instruction in such classes.

The cases of malnutrition in the fresh-air classes constitute a very large percentage of the total number of children thus being cared for. In 1914-1915 there were 312 malnutrites out of a total of 726 children; the following year<sup>1</sup> the percentage was still larger as there were 819 out of an enrollment of 1830. In view of the large prevalence of malnutrition in our school population it is evident that the number of fresh-air classes should be multiplied a hundred fold and should be established in connection with every public and parochial school.

*Tuberculosis preventorium.* A very efficient means of upbuilding the vitality of children coming from families in which there is tuberculosis has been established through the agency of the Tuberculosis Preventorium for Children. Hundreds of debilitated children with tuberculous diathesis are cared for annually in the preventorium situated at Farmingdale, New Jersey, where they are kept for about six months on the average, and where they are given medical, educational, and nutritional care of a very high order. There are a few other minor institutions of that character, mainly denominational. There is undoubtedly a need for further extension of this movement either in connection with Farmingdale or independently.

*School lunches.* Another remedial measure of established usefulness is the lunch service in the public schools. The "school lunch" has its interesting history and philosophy and its own administrative problems. The practice of feeding children at school is not a new venture in the educational world. It has been known in Germany since the end of the eighteenth century, and it was introduced in France in 1849 and in England in 1866.<sup>2</sup> The difficulty of instructing children who suffer from inanition has been recognized by schoolmasters, and arrangements have been made to provide gratuitous meals at school, paid for from public funds.

<sup>1</sup> *Eighteenth Annual Report of the New York City Superintendent of Schools on Special Classes, 1915-1916*, p. 21.

<sup>2</sup> Louise S. Bryant, *School Feeding*, pp. 14-16. J. B. Lippincott Company, Philadelphia, 1913.

From the very start the American practice has been different in principle. Emphasis has been laid on the fact that the school lunch service should not smack of charity. Many children, even those of the very poor, bring several coppers with them to spend during the lunch recess. In the absence of a lunch service at the school, they spend their pennies in purchasing candies and other eatables of the pushcart vendors outside the schools. The same coppers can buy wholesome and nutritious food at the school if the service is properly organized. From the very outset it was planned that the service should not be limited to indigent children, but should be open to all on equal terms. The malnourished, indigent children receive meal tickets from the teachers, the cost of the gratuitous meals being covered by a special fund.

The theoretical one-hour lunch recess, which in practice amounts probably to not more than forty-five minutes, in view of the time lost in leaving school and waiting in line on return, is too short to enable many children to go home for lunch, and eat it without injurious haste. In many homes the mothers are engaged in outside work, and the children stay around the school building during the lunch recess. Frequently inclement weather keeps children from going home. All these causes combined create a demand for lunches at school on the part of a large number of children. In a recent investigation made by the Department of Superintendence in one section of Philadelphia, it was found that 8 per cent of the children came to school with no breakfast and 60 per cent with insufficient breakfast.

*Baby welfare stations.* Realizing that a great deal of malnutrition is due to ignorance, early in 1917 the Health Department of New York City determined to furnish the mothers registered in the Baby Welfare Stations with practical instructions in cooking cereals and other foods and with advice as to how best to utilize a dollar's worth in buying wholesome and nutritious food. The nurses of the Baby Welfare Stations were given preliminary instruction by dietitians, and afternoon classes were started in the Milk Stations. The women come regularly, and contribute small amounts to a fund for the purchase of the materials. The cooked foods are divided among them and taken home. Through these classes many women learned for the first time the taste of cereals, as well as the method of preparing these foods. The demonstration cooking classes in other cities are reported to have

gained similar success in enlarging the dietary of the people by introducing cereals.

*Diet kitchens.* To meet the demand for cheap cooked food in the poorer districts of the city, kitchens have been opened in connection with settlements and other organizations. Many women employed during the day purchase the food for their households at these kitchens.

*Fresh-air funds.* Another important agency which aims at upbuilding the children is the fresh-air funds and camps. Thousands of children are taken to the country or seashore during the summer for short periods, usually about twelve days. This excellent charity is doing very effective work in giving the children an opportunity to enjoy the benefits of fresh air and good food. The period of stay, however, is very short, especially for the children who are very much run down. It seems desirable that arrangements should be made for a longer stay for those children whose condition is considerably below normal. In addition to the extension of time at these camps, more control should be exercised over the diet and hours of sleep of the children than is being done in some of the camps.

*Education.* The importance of proper instruction in personal hygiene and right living as a powerful counterforce to malnutrition has been well recognized, and educational campaigns have been carried on along these lines by public and private agencies. Their efforts have thus far failed of tangible accomplishment in view of the inertia and strongly entrenched habits of the various groups composing our population. A great deal remains to be done in the educational field.

A study made by Mr. Frank A. Manny of a number of malnutrition cases in the Gramercy District revealed the fact that malnutrition is more prevalent among children of native than among children of foreign-born parents. It might be worth while to follow up these findings with a more extensive study and ascertain the reasons for the condition if it obtain generally.

*Need of coordination.* If the various efforts which have been put forth to remedy the malnutrition condition among school children were properly correlated and directed, and if the cases were segregated according to a well-devised plan and the children of the wasting type eliminated for treatment in hospitals, a maximum of result could be accomplished with a minimum of expenditure. At present the various efforts being put forth lack a proper measure of coordination.

A representative committee of the most important organizations interested in the problem could probably undertake such a task to advantage.

### 100. DESERTION—ITS TREATMENT AND PREVENTION<sup>1</sup>

Family desertion is a problem of our society of sufficient importance to warrant the most serious consideration. The consideration which it has received in the past has not been commensurate with that importance. At least one-tenth of the poverty which compels the attention of organized charity is traceable directly to this cause. No measure is available of its cost in terms of broken homes, disintegrated family life, loss of character, and deficient development of children. That desertion has come to our attention so tardily is due to the fact that recognition of the home as an institution has been belated. That it is being studied now is due to the fact that it has come to impose a heavy economic burden upon the relief agencies of the country which is in great measure preventable, one which they cannot continue to bear without protest.

Desertion seems to grow out of human nature and the family situation itself, for it is apparently common to all mankind. It is found in all parts of the world, and has been known in all periods of history. No religion nor race is exempt from it. But that it flourishes in environments which especially make for instability of the family is undoubtedly true. Conditions particularly favorable to domestic disturbance are found in cities: the restraint of the *mores* is less there, because of the absence of primary group attachments; the size and mobility of the population makes for anonymity of the individual, who finds in the fact a greater freedom to do as he pleases; in the city the economic basis of family unity tends to disappear and life becomes intensely individualistic; and a general spirit of restlessness and discontent is prevalent. Family disintegration on an extensive scale is the result, and among the poorer classes especially this disintegration takes the form of desertion of families. In this the man is more commonly the offender, since tradition and children bind the wife to the home.

<sup>1</sup>From *A Study of Family Desertion* (pp. 64-67), by Earle Edward Eubank, Ph.D., Professor of Social Science in the University of Cincinnati. Department of Public Welfare, City of Chicago. Copyright, 1916, by Earle Edward Eubank.



Society's interest is more direct in cases where the man deserts, since non-support is usually an accompaniment and the community must assume the burden of his dependents. Measures for dealing with desertion are still in the experimental stage. Even yet comparatively few communities have worked out a thorough-going policy of treatment. For those which have not done so a policy is suggested:

*A record of desertion cases.* The first step for every agency to which desertion cases come is to make provision for recording deserted wives as a distinct class of applicants. The extent of the problem cannot be known otherwise, nor can proper treatment be applied. The peculiar character of desertion makes it important to have a knowledge of other matters than those needful for the files in usual cases of destitution. The ordinary record blanks of the relief society are not suitable for recording this additional information. It is suggested that a special schedule be prepared for use in desertion cases in addition to the regular forms, upon which information pertaining particularly to the desertion can be tabulated. Some of the items especially valuable to record would be: date of present desertion; date and length of previous desertions; circumstances under which desertions occurred; circumstances under which the deserter returned each time previously; how the deserter spent the intervals of absence; how the family maintained itself during those intervals, etc. Such records, if carefully prepared would constitute a helpful collection of material for the office to use in dealing with future cases, and a valuable body of information for further study and analysis of the problem.

*The training of a desertion specialist.* It would be well for every relief agency which handles desertion cases to turn all such cases in to the same investigator so far as possible. If the amount of work from this particular type of dependency is sufficient to justify it one of the regular staff could be detailed as the desertion official for the office. The experience gained through repeated handling of cases of this character, and the continual concentration of thought upon them by the same person, would increasingly qualify him for this type of work and make him better able to deal with the question discriminately and effectively.<sup>1</sup>

<sup>1</sup>A plan similar to this was instituted in 1914 by the New York Association for Improving the Condition of the Poor. See the editorial in the *Survey* for December 19, 1914.

*Separation of spurious from genuine cases.* Is the case a bona fide desertion? This should be determined first of all. For its own protection the relief agency must be severely critical in cases of this sort. The desertion specialist of the office is the one to conduct all investigation; his experience and training will make him more able than anyone else to determine the authenticity of the claim.

*Efforts to locate the man.* If this is the man's first desertion, or if the situation in general seems to indicate a likelihood of reconciliation, it is preferable that the organization undertake to locate him first rather than immediately to turn the case over to the authorities. This does not mean that private societies should seek to take the place of the police. Whenever they undertake to locate men who have deserted it should be clearly understood that they are doing so gratuitously and simply because it seems in that particular case that reconciliation is more likely to be effected by a private agency than by the police. Naturally the society can ill afford to add detective work to its other pressing duties; and it should not seek to relieve the police department of its proper responsibility.

When the deserter is found the society should employ all its powers of kindly persuasion to heal domestic differences and to effect reconciliation, provided, in view of all the circumstances, reconciliation rather than divorce seems more desirable, as ordinarily the great objective of the treatment of desertion is to re-establish the home. The deserter may be more kindly disposed toward his family and responsive to counsel if he is approached at first in a sympathetic and friendly way, rather than with threat of arrest and prosecution. If, for any reason, reconciliation between the deserter and his family is impossible or inadvisable—and sometimes that is the case—he may still be persuaded to contribute to its support without the law being invoked to compel him to do so.<sup>1</sup>

*"Interim relief."* While efforts to locate the husband are going forward in the society temporary relief may be given the wife until the possibility of the husband's return shall be determined. This, it has been suggested, should be more sparingly given during the interim than in the case of widows, in the hope that when the condition of his

<sup>1</sup> This, as Dr. Thomas J. Riley of the Brooklyn Bureau of Charities remarks, may be effective for short periods of time, but is not likely to prove successful in the long run because the local organization has no legal hold on the man.

family becomes known to the husband it may induce him to return with less delay. It is desirable that the status of the family with reference to the deserter be determined quickly and to that end the organization should work with what despatch it may in the effort to locate the man, so that the interim may be no longer than need be. This "interim relief" is for the sole purpose of maintaining the family until the progress of events may determine a permanent policy; but even this should be granted the wife solely on the condition that she shall consent to the issuance of a warrant for his arrest in case it is found impossible to secure his acknowledgment of the domestic obligation in any other way than by prosecution. This does not mean necessarily that the law will be invoked, but that she is willing that it shall be when every other means fails.<sup>1</sup>

*Legal proceedings against the man as a last resort.* If the efforts of the society to locate the man are of no avail, or if when found he cannot be persuaded to return, or if the character of the man is such that he cannot be depended upon to keep any agreement he may make as to caring for his family, his case should be turned over to the courts, there to be dealt with in a more compelling way. At this point it is of vital importance that the co-operation between public and private agencies shall be complete. It is extremely discouraging to the charities to push a case this far only to have an effectual solution fail to develop through inadequacy or indifference of the courts, the law, or their administrators. Warrants should be issued as freely for deserters as for other criminals, and not be withheld because a man's address is unknown.

*Establishment of a municipal desertion bureau.* The local machinery for locating, apprehending, and returning deserters to jurisdiction, as it is at present operated, is highly defective. In communities where desertion is of an extent to justify it a Desertion Bureau, with full legal powers, should be established as an adjunct of the court, with an expert in charge and an adequate staff of carefully selected com-

<sup>1</sup> If the warrant is taken out by the relief society or its agent, and there is danger that the wife will not keep her agreement to testify to her husband's delinquency should it become necessary, the society may secure from her beforehand an affidavit to his neglect or abuse, or a written agreement to appear against him. This would probably not be acceptable as testimony in court, as over against her refusal to testify, but it would at least serve to put her in a position where she could less gracefully refuse to testify.



petent workers, for the purpose of doing this work effectively. A bureau is particularly desirable where courts of domestic relations are already established. Their reinforcement of each other would increase the effectiveness of both. The Jewish National Desertion Bureau affords a working model as well as an inspiration for the activities of such a municipal bureau. This department should be financed from public funds, with ample appropriation made for returning men who have fled to distant points and for carrying on all other work essential to its success. In the long run a generous appropriation for such a department would be justified as a public economy. The records of the Chicago Court of Domestic Relations and of the National Desertion Bureau are sufficient evidence upon this point.

*The deserted wife who is virtually a widow.* On the books of practically all charitable societies there are cases of deserted women who are virtually widows. The desertion has taken place years ago and all hope of the husband's return has long since been abandoned. These are the "vanished husbands" whom it seems likely no effort will locate. For these cases there seems no reason why treatment should differ from that accorded widows. Treatment of them must be in accord with the needs of the individual case, relief being given in the form of a mother's pension, institutional care, or regular outdoor relief, whichever the situation warrants.

*Prevention of desertion.* A far deeper question than that of the treatment of desertion is that of its prevention. The social objective must be not merely one of rehabilitation of families which have been broken up, but the larger one of saving them from disintegration before it actually sets in. Except insofar as it may discourage other desertions any treatment of those which have already taken place is of necessity chiefly palliative; it leaves the roots of the infection still within the social system. The family today, as never before, is being subjected to influences which are modifying it in vital ways. As a living organism it must change in order to adapt itself to the demands of the day and generation. Unfortunately various elements are entering into its readjustment which are causing it to fall as an object of esteem as an institution in the eyes of many persons. Because they hold it of such low value they treat its obligations lightly, and lay them aside almost at will. The problem, then, is one of raising the value of family and home in the estimation of those who have taken



upon themselves the responsibilities which they involve. It is not enough to try to arouse in men a sense of duty which will hold them to homes which they would prefer to leave. It is not enough to perfect machinery which will compel men to shoulder domestic responsibilities which they wish to evade. Those things are important, but they are not solutions. The big undertaking is to implant in men and women a new scale of social values in which the home shall have first place.

Such an undertaking involves education, character building, the inculcation of high ideals of home life, and of family importance in the individual. It also involves, in most cases, a raising of family standards and improvement of home conditions which surround the individual; and this in turn many times involves an improvement of economic conditions which shall make such improvement possible. If men and women are to regard the home as worth while it must be made worth while. We must not suppose that domestic unrest and this lowering of domestic values can be isolated and considered in their individual aspects alone. They are but symptoms of a deep-lying and fundamental disorganization which must be readjusted before they will disappear. A community, therefore, must not depend upon its legal and charitable agencies, however efficient they may be, for a solution of its desertion problem. It must go behind the concrete outcroppings with which these specialized agencies deal, to the lives and homes of the people who compose it. Definite programs must be thoughtfully worked out, having as their objective the conservation of the home.

### 101. MOTHERS' PENSION LEGISLATION IN THE UNITED STATES<sup>1</sup>

The earliest of the laws providing for the care of dependent children in their own homes out of public funds was that of Missouri, approved April 7, 1911, which provided for an allowance to mothers "whose husbands are dead or prisoners, when such mothers are poor and have a child or children under the age of fourteen years." This law went into effect in June, 1911.

<sup>1</sup>From "Laws Relating to 'Mothers' Pensions' in the United States, Denmark, and New Zealand," United States Department of Labor, Children's Bureau, *Publication No. 7*, pp. 7-11. Government Printing Office, Washington, 1914.

In 1913, of the forty-two State legislatures in session, twenty-seven had before them bills providing for the support of dependent children in their own homes out of public funds. Illinois completely revised its law of 1911. Missouri extended the provisions of its law to include women whose husbands were in insane asylums or State colony for the feeble-minded. California, Idaho, Iowa, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, Ohio, Oregon, Pennsylvania, South Dakota, Utah, Washington, and Wisconsin enacted new laws. Massachusetts in 1912 appointed a commission on the support of dependent children of widowed mothers.

The purpose underlying all these laws is that of preventing the breaking up of the home when on account of death or disability the support of the natural breadwinner of the family is removed. But the methods adopted to secure this end vary widely in the different States, as will be seen from the following summary of the laws:

*Persons to whom aid may be given.* The law applies to any parent who on account of poverty is unable to care properly for a dependent or neglected child but is otherwise a proper guardian, in Colorado and Nebraska; to any parent or grandparent in Nevada; to any parent or guardian in Wisconsin. In the other States it applies only to mothers. In California, New Jersey, Oklahoma (and also in St. Louis), the mother must be a widow to receive the benefits of the act. In the remaining States not only widows but the following other classes of mothers with dependent children are included: mothers whose husbands are in prison in Idaho, Iowa, Minnesota, Missouri, Ohio, Oregon, South Dakota, and Washington; mothers whose husbands are in State insane asylums in Iowa, Minnesota, Missouri, Oregon, and Washington; mothers whose husbands are totally incapacitated, physically or mentally, in Illinois, Minnesota, Ohio, Oregon, South Dakota, and Washington; deserted wives in Michigan, Ohio (if deserted for three years), Pennsylvania, and Washington (if deserted for one year). In Michigan are included also unmarried and divorced mothers. In Colorado, Oregon, and Wisconsin, if the person having custody of the child is not regarded as capable of expending the aid wisely, the court may order it to be paid to some other person for the benefit of the child.

*Conditions on which aid is given.* (1) *Degree of poverty.* The condition of receiving aid under these laws is uniformly that of poverty, with certain definitions added in some of the laws. In Washington the mother must be destitute; in New Hampshire and Utah she must be dependent entirely on her own efforts for support; in Oregon, wholly or partly dependent; in Illinois she may not own real property or personal property

other than household effects. In Idaho, Illinois, Missouri, New Hampshire, Ohio, South Dakota, and Utah the aid must in the judgment of the court be necessary to save the child from neglect; in New Jersey, from becoming a public charge.

(2) *Home conditions.* In most of the laws the requirement is made that the mother is a fit person, morally and physically, to bring up her children and that it is for the welfare of the child to remain at home. In Idaho, Illinois, Missouri, New Hampshire, Ohio, South Dakota, and Utah it is made conditional that the child or children be living with the mother and that the mother shall not work regularly away from home. In South Dakota she may not be absent for work more than one day a week; in Illinois and Ohio the amount of time is left to the discretion of the court.

(3) *Residence.* In Washington and Minnesota one year's residence in the county is required; in Idaho, Missouri, New Hampshire, Ohio, and Utah two years' residence; in Illinois and Pennsylvania three years' residence. Some of the States require "legal residence" in the State; Minnesota, two years' residence; California and Massachusetts, three years; California and Illinois require, in addition, that applicant be a citizen of the United States.

*Age of child.* The maximum age of a child on whose account an allowance may be made is fourteen years in California, Illinois (may be extended to sixteen years if child is ill or incapacitated for work), Iowa, Massachusetts, Minnesota, Missouri, South Dakota, and Wisconsin; fifteen in Idaho, Utah, and Washington; sixteen in Colorado, New Hampshire, New Jersey, Oklahoma, and Oregon; seventeen in Michigan; and eighteen in Nebraska and Nevada. The legal working age is the limit in Ohio and Pennsylvania.

*Amount of allowance.* The maximum allowance for one child is \$2 a week in Iowa, \$3 a week in Michigan. It is \$9 a month for one child, \$14 for two children, and \$4 for each additional child in New Jersey; \$10 a month for each child in Minnesota and Nebraska; \$10 a month for one child and \$5 for each additional child in Idaho, Missouri (i. e., Jackson County), New Hampshire, and Utah; \$10 for one child and \$7.50 for each additional child in Oregon; \$12 for one child and \$4 for each additional child in Wisconsin (amount may, however, be temporarily increased in case of sickness or unusual conditions); \$12 for one child, \$20 for two children, \$26 for three children, and \$5 for each additional child in Pennsylvania; \$12.50 for each child in California (\$6.25 a month by the State and a like amount by the city or county); \$15 for one child and \$5 for each additional child in Washington; \$15 for one child and \$7 for each additional child in Ohio and South Dakota; \$15 for one child and \$10 for each additional child in Illinois (not to exceed in all \$50 for any one family). In Colorado, Massachusetts, and Nevada no maximum is



set, but the amount must be sufficient to care properly for the child, with the restriction in Nevada that it may not exceed what it would cost to maintain and educate the child in a county or State home. In Oklahoma the "school scholarship" is the equivalent of the wages of the child. In the city of St. Louis the maximum is \$3.50 a week, which may be increased temporarily on account of sickness or other exceptional conditions.

*Administration.* The law is administered by the juvenile court or some other county court with similar functions in Colorado, Illinois, Idaho (probate court), Iowa, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Jersey (common pleas), Ohio, Oregon, South Dakota, Utah, Washington, and Wisconsin; by the county commissioners, upon advice of the school board, in New Hampshire; by the city or town overseers of the poor in Massachusetts; and by an unpaid board of five to seven women residents of each county, appointed by the governor, in Pennsylvania. In Ohio, Nebraska, and South Dakota the order granting aid is good only for six months unless renewed. In Idaho, Illinois, Minnesota, Missouri, Nevada, New Hampshire, Ohio, Utah, and Washington the court may at any time modify or discontinue the allowance. In California supervisory powers are given to the State board of control, which can appoint three State children's agents, with an unpaid advisory committee of three persons in each county; in New Jersey all cases granted aid are under the supervision of the State board of children's guardians. In Massachusetts certain supervisory powers are given to the State board of charity; in Wisconsin to the State board of control. In Illinois and Ohio the law requires that visits shall be made to the homes from time to time by the probation officers; in Massachusetts that the overseers of the poor shall visit the families at least once in every three months and reconsider each case at least once a year.

*Source of funds.* In all the States except California, Massachusetts, Pennsylvania, and Wisconsin the funds for carrying out the provisions of these laws come out of the county treasury. In Illinois these are raised by a special tax of not exceeding three-tenths of a mill on the dollar of the taxable property of the county, and in Ohio by a tax not exceeding one-tenth of a mill. In California reimbursement to the extent of \$75 a year is made to the local authorities by the State; in Massachusetts one-third of the amount in settled cases and the whole amount in unsettled cases. In Pennsylvania and Wisconsin the State bears one-half of the expense within the limits of the appropriation, which is apportioned according to the population of the counties.

*Penalty for fraud.* Penalties are provided for procuring or attempting to procure an allowance fraudulently in Idaho, Illinois, Missouri, Nevada, Ohio, Pennsylvania, South Dakota, Utah, and Washington.



102. FEDERAL AID FOR THE PROTECTION OF MATERNITY AND INFANCY<sup>1</sup>

The Children's Bureau was created by act of Congress in 1912. Heading a long list of subjects which it is directed by its organic act to investigate is that of infant mortality. Because it was considered of fundamental importance, this subject was the first one to be investigated by the Children's Bureau. The initial study made in an industrial town in 1913 was, at the special direction of Congress, repeated in nine other industrial towns and cities including Baltimore, Md., and Gary, Ind. Studies of the care available to mothers and infants in typical rural communities of twelve states of the South, Middle West, and West were also made.

The coincidence of a high infant mortality rate with low earnings, poor housing, the employment of the mother outside the home, and large families was indicated in all these studies. They also showed that there is great variation in the infant mortality rates, not only in different parts of the United States, but in different parts of the same state and the same city or town. These differences were found to be caused by different population elements, widely varying social and economic conditions, difference in appreciation of good prenatal and infant care, and the facilities available for such care.

Evidence of the methods used in successful efforts to reduce infant mortality was also assembled. The instruction of mothers through infant-welfare centers, public-health nurses, and popular bulletins as to the proper care of children, the value of breast-feeding, the importance of consulting a doctor upon the first evidence of disease, everywhere brought substantial decreases in deaths, especially from causes classified in the gastrointestinal and respiratory groups. But little progress was made or has since been made in reducing the deaths in early infancy, including deaths caused by premature birth, congenital debility, and injuries at birth. Thus, in the year 1915 the number of infant deaths during the first month of life in the Registration Area of the United States was more than five times that of the tenth, eleventh, and twelfth months, and in 1920 it was still five times as great. Similarly, in the year 1915 the number of infant deaths during

<sup>1</sup>By Grace Abbott, Chief of the Children's Bureau, Washington, D. C. From the *American Journal of Public Health*, Vol. XII, No. 9 (1922), pp. 737-742.

the first week of life was eight times that in the fourth week, and in 1920 it was nine times as great. Consideration of the causes of infant mortality inevitably leads, therefore, to the question of the care mothers are receiving before, during, and after childbirth.

An analysis of the available statistical information with reference to deaths among mothers was published by the Bureau in 1917 and was the subject of much discussion. In a few places the possibility of reducing this death-rate about one-half through prenatal supervision in connection with prenatal clinics or maternity centers had been demonstrated.

With the evidence that, as Dr. Howard has pointed out, "the prevention and control of illness and death of mother and child are among the most neglected and potentially the most fruitful domains of public-health administration," some means for extending on a national scale the successful local work for better care for mothers and infants was obviously necessary.

In her annual report for 1917, Miss Julia Lathrop, in reporting on the Bureau's investigation of infant and maternal mortality, called attention to the method of coöperation between national and local government adopted by Great Britain in the so-called grants-in-aid for maternity and infant-welfare work and suggested that the United States should use the well-established principle of federal aid as a basis of national and state coöperation in reducing the unnecessary high death-rate among mothers and babies in this country. The best-known previously enacted laws of this general type were: the Morrill Act of 1862 providing for land-grant colleges; the Hatch Act of 1887 establishing agricultural experiment stations; the Smith-Lever Act of 1914 creating the agricultural extension service; the Good Roads Act of 1916 (extended in 1919, 1921, and 1922); and the Vocational Education Act of 1917.<sup>1</sup> For an almost innumerable number of objects Congress had granted to the states temporary subsidies from time to time. In view, then, of the overwhelming evidence of the need of promoting on a national scale the health of mothers and babies and the successful demonstration by a number of both public and private agencies in different parts of the country of what could be done through maternity and well-baby centers, it was but logical to resort to the method of state and federal coöperation which had been so frequently used for less important ends.

<sup>1</sup>The Industrial Rehabilitation Act has since been passed (1920).

The Sheppard-Towner Act for the Promotion of the Welfare and Hygiene of Maternity and Infancy, which became a law November 23, 1921, is in all essentials the same as the plan for the "public protection of maternity and infancy" submitted by Miss Lathrop in her annual report for 1917. Briefly summarized, its most important provisions are as follows: (1) *Appropriation*. It authorizes an appropriation of \$1,240,000 for a five-year period, of which not to exceed \$50,000 may be expended by the Children's Bureau for administrative purposes and for the investigation of maternal and infant mortality; the balance to be divided among the states accepting the Act as follows: \$5000 unmatched to each state, and an additional \$5000 to each state if matched; the balance to be allotted among the several states on the basis of population, and granted if matched. (2) *Administration*. National administration of the Act is lodged with the Children's Bureau of the Department of Labor; local administration in the states is in the Child Hygiene or Child Welfare Division of the state agency of health, or where such a division does not exist, the agency designated by the state. (3) *Plan of work*. The Act intends that the plan of work shall originate in the state and be carried out by the state. A Federal Board of Maternity and Infant Hygiene, composed of the chief of the Children's Bureau, the Surgeon General of the United States Public Health Service, and the United States Commissioner of Education, may approve or disapprove state plans, but the Act provides that the plans must be approved by the Federal Board if "reasonably appropriate and adequate to carry out its purposes."

As originally introduced, the Act provided that the funds were to be expended by the states for "provision of instruction in the hygiene of maternity and infancy through public-health nursing, consultation centers, and other suitable methods; and the provision of medical and nursing care for mothers and infants at home or at a hospital when necessary, especially in remote areas." These specific provisions do not appear in the Act as passed, and the only prohibitions are that no part of the funds is to be expended for the purchase, erection, or repair of any building or equipment, or for the purchase or rental of any buildings or lands, or for any maternity or infancy stipend, gratuity, or pension. While the Act was passed November 23, 1921, the money was not made available until the following April. The

second Deficiency Act, passed March 20, 1922, carried an appropriation of \$490,000 for the balance of the fiscal year ending June 30, 1922, and the Appropriation Act for the Departments of Commerce and Labor for the fiscal year ending June 30, 1923, provides \$1,240,000 for the purposes of the Maternity and Infant Hygiene Act. Some preliminary decisions and approval forms by the comptroller of the Treasury were necessary so that the first money was not paid to the states until May of 1922.

Up to date forty-two states have accepted the terms of the Act—all except Maine, Massachusetts, Rhode Island, New York, Louisiana, and Washington. Eleven of these acceptances (New Hampshire, Delaware, New Jersey, Maryland, Virginia, South Carolina, Kentucky, Mississippi, Minnesota, Oregon, and New Mexico) are by state legislatures and the remaining thirty-one by governors pending the next regular session of the legislature.

The amounts available to the states for the fiscal year ending June 30, 1923, are as follows:

MAXIMUM AMOUNT AVAILABLE TO THE STATES FOR THE FISCAL YEAR  
ENDING JUNE 30, 1923

STATE	APPORTIONED ON BASIS OF POPULATION	TOTAL GRANTED IF MATCHED <sup>1</sup>	GRAND TOTAL <sup>2</sup>
Total . . . . .	\$710,000.00	\$950,000.00	\$1,190,000.00
Alabama . . . . .	15,836.95	20,836.95	25,836.95
Arizona . . . . .	2,253.71	7,253.71	12,253.71
Arkansas . . . . .	11,817.51	16,817.51	21,817.51
California . . . . .	23,112.01	28,112.01	33,112.01
Colorado . . . . .	6,337.20	11,337.20	16,337.20
Connecticut . . . . .	9,311.48	14,311.48	19,311.48
Delaware . . . . .	1,504.01	6,504.01	11,504.01
Florida . . . . .	6,531.72	11,531.72	16,531.72
Georgia . . . . .	19,530.55	24,530.55	29,530.55
Idaho . . . . .	2,912.66	7,912.66	12,912.66
Illinois . . . . .	43,739.10	48,739.10	53,739.10
Indiana . . . . .	19,763.62	24,763.62	29,763.62
Iowa . . . . .	16,213.60	21,213.60	26,213.60
Kansas . . . . .	11,932.52	16,932.52	21,932.52

<sup>1</sup>Includes \$240,000 granted if matched (\$5000 to each state).

<sup>2</sup>Includes \$240,000 granted outright (\$5000 to each state) in addition to amounts granted if matched.



## THE PROBLEM OF POVERTY

MAXIMUM AMOUNT AVAILABLE TO THE STATES FOR THE FISCAL YEAR  
ENDING JUNE 30, 1923 (Continued)

STATE	APFOR- TIONED ON BASIS OF POPULATION	TOTAL GRANTED IF MATCHED <sup>1</sup>	GRAND TOTAL <sup>2</sup>
Kentucky . . . . .	16,298.64	21,298.64	26,298.64
Louisiana . . . . .	12,129.80	17,129.80	22,129.80
Maine . . . . .	5,179.77	10,179.77	15,179.77
Maryland . . . . .	9,777.05	14,777.05	19,777.05
Massachusetts . . . . .	25,981.70	30,981.70	35,981.70
Michigan . . . . .	24,741.11	29,741.11	34,741.11
Minnesota . . . . .	16,099.65	21,099.65	26,099.65
Mississippi . . . . .	12,076.58	17,076.58	22,076.58
Missouri . . . . .	22,958.19	27,958.19	32,958.19
Montana . . . . .	3,701.91	8,701.91	13,701.91
Nebraska . . . . .	8,743.21	13,743.21	18,743.21
Nevada . . . . .	522.06	5,522.06	10,522.06
New Hampshire . . . . .	2,988.31	7,988.31	12,988.31
New Jersey . . . . .	21,284.55	26,284.55	31,284.55
New Mexico . . . . .	2,430.33	7,430.33	12,430.33
New York . . . . .	70,041.78	75,041.78	80,041.78
North Carolina . . . . .	17,259.66	22,259.66	27,259.66
North Dakota . . . . .	4,362.74	9,362.74	14,362.74
Ohio . . . . .	38,843.46	43,843.46	48,843.46
Oklahoma . . . . .	13,679.48	18,679.48	23,679.48
Oregon . . . . .	5,283.46	10,283.46	15,283.46
Pennsylvania . . . . .	58,810.99	63,810.99	68,810.99
Rhode Island . . . . .	4,076.28	9,076.28	14,076.28
South Carolina . . . . .	11,355.65	16,355.65	21,355.65
South Dakota . . . . .	4,293.11	9,293.11	14,293.11
Tennessee . . . . .	15,767.55	20,767.55	25,767.55
Texas . . . . .	31,450.52	36,450.52	41,450.52
Utah . . . . .	3,030.89	8,030.89	13,030.89
Vermont . . . . .	2,376.90	7,376.90	12,376.90
Virginia . . . . .	15,574.00	20,574.00	25,574.00
Washington . . . . .	9,149.55	14,149.55	19,149.55
West Virginia . . . . .	9,871.74	14,871.74	19,871.74
Wisconsin . . . . .	17,751.62	22,751.62	27,751.62
Wyoming . . . . .	1,311.12	6,311.12	11,311.12

Payments have been made to 38 states from 1922 funds and to 27 states from 1923 funds. Of the 38 states that have received payments from 1922 funds, 22 matched their full allotment, 4 matched part of

<sup>1</sup> Includes \$240,000 granted if matched (\$5000 to each state).

<sup>2</sup> Includes \$240,000 granted outright (\$5000 to each state) in addition to amounts granted if matched.

their allotment, and 12 accepted the \$5000 granted outright without matching. Of the 27 states that have received payments from 1923 funds, 12 matched their full allotment, 6 matched part of their allotment, and 9 accepted the \$5000 granted outright without matching.

The Federal Board of Maternity and Infant Hygiene met on April 18, 1922, elected the chief of the Children's Bureau chairman of the Board, and proceeded to consider the plans submitted by states accepting the Act. The Board has laid down no plan of work which a state must follow nor has it made approval of plans contingent on complying with certain conditions, each plan being considered on its merits.

The plans submitted by the states and approved by the Board vary greatly. The best planning for a state requires a correlation of the money available with the number and causes of deaths among mothers and babies in the different parts of the state and the available local facilities. Unfortunately, eighteen of the states accepting the Act have not as yet sufficiently complete registration of births to be counted in the Birth Registration Area and twelve are not in the Death Registration Area. Obviously their plans cannot have the fact basis which is so desirable. Practically all these states are making the Sheppard-Towner Act the basis for a new effort to secure a new law or the enforcement of the one already enacted.

In some states the infant-welfare program is well started and the federal money can be used in the development of plans already tested by local experience, but in a far fewer number is the program for maternity care anything like so well developed; hence preliminary educational work in this field is generally necessary. Examples of plans on which the states are starting their work will make the value of the law clear.

One state, whose budget for fifteen months with the federal funds amounts to \$62,269.02, has selected two counties as training and demonstration centers in maternity and infant care, where special attention will be given to the development and standardization of plans of work. These training bases offer the following variety of problems: (1) Strictly city problems. (2) Small town problems. (3) Problems connected with mining camps and industrial communities. (4) Rural problems associated with agricultural pursuits and involving isolation, poverty, and ignorance to a marked degree. In

this state, inauguration of a maternity and infancy program in connection with the already established county health units will be possible in at least five additional counties. Efforts will be made to secure the adoption of a maternity and infancy program in the remaining fifteen counties having organized county health units. In counties having no full-time health service, a general study of the racial elements of the population and the possibilities of local coöperation will be made, and campaigns to secure registration of all births, use of "drops" in the eyes of new-born babies, and reporting of cases of ophthalmia neonatorum will be made.

Another state, which will have available \$61,567.22 for a fifteen months' program, has a fairly well-developed county organization for public-health work, and there is general local appreciation of the value of work for mothers and babies. In this state nurses are to be placed in counties already organized, who will devote themselves to maternity and infancy. Supervision of midwives, the number of whom is estimated at some six thousand, inspection of maternity hospitals, as well as conducting prenatal and child-hygiene centers, are included in the plans.

Any public-health work is, shall we say, at least three-fourths educational. The widespread discussion of the Sheppard-Towner Act has already done much to acquaint women and legislators with the importance of scientific care for themselves and their babies. Thus New York, Massachusetts, and Maine, although not accepting federal assistance, have made their first appropriations for the promotion of the hygiene of maternity, as a result of discussion of the Sheppard-Towner Act. Whether considered separately or in relation to other states or nations, every state must face the fact that there is a general demand that whatever the source or character of the opposition, the large and preventable loss of life among mothers and babies must be reduced. But the value of the work is not limited to the saving of life.

All the examinations of cross-sections of the population made in connection with pre-school clinics, school medical inspection, medical certification of children for work permits, examinations of all the men in connection with the draft, show substantially the same high percentage of physical subnormality. Care of the mother and the child from birth are the foundation on which a national program must be built. Subsequent work is remedial, not preventive.

## CHAPTER XXVIII

### CHILD PROTECTION

#### 103. CHILD-PLACING<sup>1</sup>

*Dr. Barnardo's homes and child-placing.* One of the most striking developments of the latter half of the nineteenth century was the National Incorporated Association for the Reclamation of Destitute Waif Children, otherwise known as Dr. Barnardo's Homes, operating in England and the colonies of the British Empire. This philanthropic work began in 1866, when Dr. Thomas P. Barnardo aided his first homeless boy in London, and gradually extended under the efforts of its founder, until in 1899, it had assumed proportions of widespread public interest and advantage and was duly incorporated. The purpose from the beginning was and now is: "To provide a home and afford a start in life to destitute, orphan, waif, stray, maimed, and sick children who otherwise have no helper."

Between 1866 and the close of the year 1915, a total of 82,126 children were rescued from want, distress, and homelessness and cared for in numerous institutions for a time. Some were then returned to their own rehabilitated homes, but the vast majority were placed in selected families, first in England only, later also in Canada and other British colonies. Up to the close of 1915 an aggregate of 25,779 children had been sent across the Atlantic for distribution in Canadian families, 294 of them during 1915. Many were also sent to other parts of the British Empire.<sup>2</sup>

*American organizations.* Child-placing in families by incorporated societies, using paid trained workers and operating by systematized methods, was the most important development in child welfare work during the latter half of the nineteenth century. The first of these modern agencies in the United States was the Children's Aid Society

<sup>1</sup>From *Child-Placing in Families* (pp. 35-36, 38-48, 161, 184-196), by W. H. Slingerland, A. M., D. D., Department of Child-Helping, Russell Sage Foundation. Copyright, 1918, by the Russell Sage Foundation, New York.

<sup>2</sup>Statistics from Fiftieth Annual Report of Dr. Barnardo's Homes, 1915.



of the City of New York, founded in 1853 by Charles Loring Brace. Its original purpose was to send homeless city children to distant country homes, with little or no preliminary institutional care. The organization has constantly enlarged its scope and activities, and after more than half a century of service, now cares annually for hundreds of children at a cost of over half a million dollars.

In 1868 the Massachusetts State Board of Charity originated the method of boarding-out dependent children in private families at public expense. The plan soon became popular and the work rapidly expanded. Private organizations followed the example of the state board and began boarding-out their wards. Nearly twenty institutions for dependent children ultimately closed their doors and retired from the work. While no exact figures are obtainable, workers in the child welfare field have estimated that at least ten thousand dependent children of Massachusetts are now provided for in boarding homes by public and private agencies, and that the annual cost of such work exceeds a million dollars.

*Extent and variety of work.* The extent of the modern movement for child-placing in America can best be suggested by the fact that in 1910 Hastings H. Hart, in his book, *Preventive Treatment of Neglected Children*, listed one hundred and seven public and private societies and agencies for this work. By 1917 the number had become very much larger, it being estimated that in that year there were over two hundred organized child-placing agencies in this country annually finding homes for at least fifty thousand children. Nearly as many more children are annually placed in families by child-caring institutions. Public agencies have multiplied in recent years, and now compose no small part of the whole number. Examples are the New Jersey State Board of Children's Guardians and the Children's Welfare Department of the Ohio Board of State Charities.

Child-placing in "free homes," those where there is no payment of board, is used mainly for children requiring permanent care, and a large per cent of those so placed are given full membership in the families by legal adoption. The boarding-out plan, use of which has immensely increased in recent years, applies especially to children for whom only temporary care must be provided, although in Massachusetts and Pennsylvania children are kept indefinitely long periods on board at the expense of public and private agencies.

Nearly all child-caring institutions do more or less child-placing in families. Many retain their wards only a limited time, until they are ten, twelve, or fourteen years old, and then find them places in selected private families. Other institutions give somewhat definite vocational training, and then locate their wards in family homes where their services at once make them self-supporting. All child-caring institutions must at some age dismiss their wards, and the usual method when that age arrives is to obtain a place for a child in a private home as an accepted inmate or paid worker, before withdrawing institutional care and support. Considerable child-placing is done by directors of the poor and the juvenile courts, although many public officials now prefer to secure the aid of regularly established agencies for such work.

A vast amount of child-placing has also always been done by private individuals, such as physicians, clergymen, lawyers, nurses, midwives, keepers of maternity homes, and the officers of hospitals and other institutions.

*Definitions.* It is not an easy task to define child-placing in families accurately and comprehensively in these days. The term no longer means the "homefinding" of past generations; the simple placing of a strange child in a foster home. It now implies law, method, organization, investigation, and social as well as individual betterment. Child-placing is so widely useful and so vitally important that its definition, fundamental principles, organizations, and essential methods, should be matters of common knowledge and the basis of community action.

*Legal definition.* The only legal definition of child-placing in families known to the writer is to be found in Article 16, Section 300, of the State Charities Law of the State of New York. "The term 'place-out' . . . means the placing of a destitute child in a family, other than that of a relative within the second degree, for the purpose of providing a home for such child."

In order to obtain a consensus of opinion as to what constituted a satisfactory definition a note of inquiry, quoting the New York definition, was sent to about fifty of the leading child-placing agencies of the United States. On the basis of the replies received, the writer has constructed a working definition which has been submitted to and found satisfactory by a number of social workers:

*A working definition.* "Child-placing in families is placing destitute and neglected children, temporarily or permanently, in families other than their own, for the purpose of providing care and homes for them."

The definition given is intended to cover all child-placing, good or bad, standardized or unstandardized, by individuals, societies, or institutions. But certain standards have come to be generally recognized by well-organized child-placing agencies as essential to the right doing of the work outlined in the definition.

*Corollaries.* The most important of these standards are indicated in the following corollaries:

1. The work is highly responsible because it involves the most sacred interests of the family and the entire future interests of the child.

2. It is a technical branch of social service, requiring expert agents and exact methods, and should be done only by public officers duly qualified for such work, or by trained representatives of public or private organizations that have been approved by a competent state authority.

3. Nearly all institutions for dependent and delinquent children are engaged in child-placing. An institution does placing-out work when it selects homes, or secures positions including homes, for any number of its minor wards, and by authority of its guardianship officially arranges for their location in such homes, either as paying boarders, free inmates, or paid workers.

4. Children may be placed-out in any of three ways:

- a. On board, the board being paid by parents, guardian, agency, or public officer, or partly by one and partly by another.

- b. In "free homes," without payment of board, the expense of care being supplied by the foster parents.

- c. In "working homes," at wages which may or may not leave a surplus beyond the child's board and clothes.

5. Children placed with relatives of the second degree; that is, in the homes of grandparents, brothers, or sisters, should not be reported as "placed-out," but as "placed with kin."

6. Children remaining in homes for less than seven days should not be reported as placed-out. This rule, adopted by the United States Census Bureau in 1910, should be accepted for statistical purposes.

7. Careful studies of the causes of family break-down, of juvenile dependency and delinquency, and of the results of child-placing in families, are requisite to a wise and progressive educational and preventive program.

### *Child-Placing Organizations*

The placing of dependent, neglected, or delinquent children in family homes must be standardized in all of its relations and work. The haphazard methods of other days can no longer be approved. They too often defeated the very object they were intended to accomplish, and supposedly rescued boys and girls have frequently been cast into an environment that injured body and spirit, and sometimes destroyed even life itself.

The minimum requirements of a child-placing agency should be established by the commonwealth. Proper state authority should be exercised, not only over the agencies already in operation but also over those in process of formation. Many states have very little legislation covering these matters, and corporations for child care not classed as financial enterprises may be established freely and continued indefinitely without examination or supervision. The time has come to call a halt, and in the name of humanity to put child-caring work of all sorts upon a higher plane.

*Organization elements and relations.* The following outline gives the proper minimum requirements for child-caring organizations, with especial reference to child-placing in families.

1. At least five reputable and responsible citizens of the commonwealth, the group including both sexes, associated as a board of incorporators or a board of trustees or managers, should present for approval to the proper state authorities, articles of association or incorporation, defining the proposed child welfare work, the methods to be used, and the objects to be accomplished.

2. No incorporation should be allowed or charter granted until the project and plans shall have been investigated by said state authority whose approval shall be based upon reasonable and satisfactory assurance on the following points:

- a. The good character and intentions of the applicants.

- b. The present and prospective need for the service intended by the proposed organization.



*c.* The employment of capable, trained, or experienced workers.  
*d.* Sufficient financial backing to insure effective work.  
*e.* The probability of permanence in the proposed organization or institution.

*f.* That the methods used and the disposition made of the children served will be in their best interests and in that of society.

*g.* Wise and legally drawn articles of incorporation or institutional charter, and related by-laws.

*h.* That in the judgment of said state authority the establishment of such an organization is desirable and for the public welfare.

3. All child-placing in families should be done by approved agencies and institutions that have satisfied a competent state authority that they are reputable and properly qualified to do the work, and that pledge themselves to:

*a.* Investigate all cases of children offered for reception carefully and thoroughly. This implies the individual and family "case study" so urgently insisted upon and described elsewhere.

*b.* Examine and treat children according to their needs. Social, dietetic, medical, and psychological treatment while in temporary care, and the careful fitting of children into new homes or institutions are here implied.

*c.* Provide sympathetically and considerately for the happiness and the recreational needs of the children; first, as insuring pleasant and normal living conditions; second, as an essential part of their development and education.

*d.* Personally inspect and judiciously select all family homes used. The use of trained paid agents, expert in child-placing work, is always essential to high class service.

*e.* Give all placed-out wards adequate supervision. Each agency or institution must supervise its wards after placement, and proper state supervision of all organizations and their work is also a social necessity.

4. Child-placing in families by unauthorized individuals, such as nurses, midwives, physicians, and clergymen, should be prohibited by law; and placing-out by public officers should be done only by those who are connected with proper agencies or institutions, or who have been appointed to and approved for such work by competent authorities.

5. Commercial lying-in homes and maternity hospitals should be allowed to operate only when duly licensed after thorough examination and approval by the state authorities as to the desirability of establishing such institutions and as to buildings, equipment, facilities for proper service, and the character of the management and employes; and all such institutions should be forbidden by law to place out children.

6. Certificates of approval from a competent state authority, renewable annually, should be required of all organizations caring for dependent, delinquent, or defective children, including both child-placing agencies and institutions for continued care, whether or not they receive support from public funds.

7. The appropriation of public funds to private agencies or institutions, if granted at all, should be absolutely limited to such as are approved and certified by a proper state authority; and all such funds should be granted only on the basis of specific service rendered for children found to be proper charges upon funds raised by taxation. They should never be given in lump sums without audit or definite application.

8. Every child-caring agency or institution should be required to keep adequate records of all of its wards and of all its work. Definite forms and sets of records should be provided by the state, to secure both efficiency and uniformity.<sup>1</sup>

9. There should be in each commonwealth a central state supervisory board or department, with authority to cover all matters indicated in the preceding paragraphs. This supervisory power may be vested in a state board of control, a state board of charities, or in a special agency, perhaps called the board of children's guardians.

*Some operating essentials.* The most important essentials in the operation of a child-placing organization are a wise board of administration, a competent executive officer, and a capable staff of workers.

1. The Board. The society or association should have an intelligent and efficient board of managers, composed of both men and women, preferably not more than fifteen in number. They should represent all sections of the state or tributary territory, but should be so located as to make it possible to secure a quorum at business meetings. There should be no figureheads on the board. To encumber

<sup>1</sup> See *Elements of Record Keeping for Child-Helping Organizations*, by Georgia G. Ralph, Department of Child-Helping, Russell Sage Foundation, New York, 1915.

the list with the names of prominent people who have no special interest in child welfare and who have no intention of doing anything to promote it, is foolish and inexcusable. In order to make the organization a success, each member should count one in real interest and personal service.

2. The Executive. The board should secure, as the active and responsible executive, a competent superintendent, who can be entrusted with broad authority to plan and prosecute the work of the organization. The superintendent should be a person of tact and adaptability, so as to work for and with the board of managers, and yet of initiative and independence, so as to meet the pressing emergencies of this position. This executive may be of either sex, but must be well educated, of high character, and should have had some special training or practical experience in social work. He or she ought to have at least the ability which would be required for a high school principal or a county superintendent of schools; and should receive a salary at least as large as would be paid to people in such positions. The work is strenuous and important. Broken down teachers and superannuated ministers are unfitted for and unequal to the task. Only men and women strong in body, gifted in mind, sagacious in judgment, and highly conscientious, should be selected for such executive positions.

3. The Workers. The staff of workers, headed by the superintendent, is the main requisite for the active operation of a child-placing society. Even in a children's home or an orphanage the staff of employes has been called "the soul of the institution." Institutions for the continued care of children must have grounds, buildings, and much general physical equipment in order to carry on their work. But in child-placing agencies, where the physical "plant" is comparatively small and unimportant, practically all of the emphasis should be placed upon the workers. Each should be carefully selected on account of competency for and adaptation to such service. Training and experience count, and should have due recognition. The quality of the executive will be clearly shown by the staff of workers which he collects and commands. The agents of such societies should be technically qualified to do expert "case work"; that is, to study comprehensively any child's family history, environment, and personality, and in a general way its physical, mental, and moral condition.

*Essentials of state supervision.* . . . State supervision of private child-caring institutions is a necessity. The following will cover the most important essentials of adequate supervision:

1. There must be proper power and authority vested by legislative action in a suitable state board.

2. The board and its working force should be absolutely non-partisan and nonsectarian.

3. Its entire service should be impartially administered.

4. Only trained or experienced agents of high quality should be employed.

5. The state should make liberal appropriations for its support.

6. It should have authority over all sorts of institutions, whether aided by public funds or dependent upon private benevolence.

7. It should have power to compel the rectification of any neglect or abuses of children in institutions and proper supervision by agencies of children placed-out in families; and it should have the right to transfer any children improperly placed.

8. It should establish minimum standards of child care, both physical and administrative, and require the keeping of systematic records of all children, service, and finance.<sup>1</sup>

9. It should grant certificates of approval annually after careful inspection to all approved agencies and institutions.

10. It should wisely and tactfully enforce all laws, but this work should be secondary to efforts to improve the service rendered to the children and to secure their welfare.

11. As the only practical way to solve social welfare problems is by state-wide action, in which is implied occasional resort to legislation and sometimes the necessity of funds produced by taxation, one chief duty of the supervisory board should be so to study the situation that it may create a State Program of Child Welfare covering both present needs and the probable requirements for one or two decades of all classes of dependent, delinquent, and defective children.<sup>2</sup>

<sup>1</sup> See *Child Welfare Work in California*, by W. H. Slingerland, Ph.D., Department of Child-Helping, Russell Sage Foundation, 1916, p. 227.

<sup>2</sup> A tentative outline of a state program, by H. H. Hart, LL.D., is given on pages 32-34 of *Child Welfare Work in Pennsylvania*, by W. H. Slingerland, Ph.D., Department of Child-Helping, Russell Sage Foundation, 1915; also, in the same volume, pp. 256-265, a discussion of state supervision of children's institutions.



## 104. MINIMUM STANDARDS OF CHILD WELFARE

*Minimum Standards for the Protection of Children in Need of Special Care*<sup>1</sup>

1. *General statement.* Every child should have normal home life, an opportunity for education, recreation, vocational preparation for life, and for moral and spiritual development in harmony with American ideals and the educational and spiritual agencies by which these rights of the child are normally safeguarded. The Conference recognizes the fundamental rôle of home, religion, and education in the development of childhood.

Aside from the general fundamental duty of the State toward children in normal social conditions, ultimate responsibility for children who, on account of improper home conditions, physical handicap, or delinquency, are in need of special care devolves upon the State. Particular legislation is required for children in need of such care, the aim of which should be the nearest approach to normal development. Laws enacted by the several States for these purposes should be coordinated as far as practicable in view of conditions in the several States, and in line with national ideals.

2. *Home care.* The aim of all provision for children in need of special care necessitating removals from their own homes, should be to secure for each child home life as nearly normal as possible, to safeguard his health, and provide opportunities for education, recreation, vocational preparation, and moral and spiritual development. To a much larger degree than at present, family homes may be used to advantage in the care of special classes of children.

3. *Adequate income.* Home life, which is, in the words of the Conclusions of the White House Conference, "the highest and finest product of civilization," cannot be provided except upon the basis of an adequate income for each family, and hence private and governmental agencies charged with the responsibility for the welfare of children in need of special care should be urged to supplement the resources of the family wherever the income is insufficient, in such

<sup>1</sup>Drawn up by a committee of the Children's Bureau Conference, May and June, 1919. From *Standards of Child Welfare*, United States Department of Labor, Children's Bureau Publication No. 60, pp. 440-444. Government Printing Office, Washington, 1919.

measure that the family budget conforms to the average standard of the community.

4. *Incorporation, licensing, and supervision.* A State board of charities, or a similar supervisory body, should be held responsible for the regular inspection and licensing of every institution, agency, or association, public or private, incorporated or otherwise, that receives or cares for children who suffer from physical handicaps, or who are delinquent, dependent, or without suitable parental care. This supervision should be conceived and exercised in harmony with democratic ideals which invite and encourage the service of efficient, altruistic forces of society in the common welfare. The incorporation of such institutions, agencies, and associations should be required, and should be subject to the approval of the State board of charities or similar body.

5. *Removal of children from their homes.* Unless unusual conditions exist, the child's welfare is best promoted by keeping him in his own home. No child should be removed from his home unless it is impossible so to reconstruct family conditions or build and supplement family resources as to make the home safe for the child, or so to supervise the child as to make his continued presence safe for the community.

6. *Principles governing child-placing.* This Conference reaffirms in all essentials the resolutions of the White House Conference of 1909 on the Care of Dependent Children. We believe they have been guides for communities and States that have sought to reshape their plans for children in need of special care. We commend them for consideration to all communities whose standards do not as yet conform to them, so that such standards may be translated into practice in the various States.

Before a child is placed in other than a temporary foster home adequate consideration should be given to his health, mentality, character, and family history and circumstances. Remediable physical defects should be corrected. Complete records of every child under care are necessary to a proper understanding of the child's heredity, development, and progress while under the care of the agency. Careful and wise investigation of foster homes is prerequisite to the placing of children. Adequate standards should be required of the foster families as to character, intelligence, experience, training, ability, income, and environment.

A complete record should be kept of each foster home, giving the information on which approval was based. The records should also show the agency's contacts with the family from time to time for the purpose of indicating the care it gave to the child entrusted to it. In this way special abilities in the families will be developed and conserved for children. Supervision of children placed in foster homes should include adequate visits by properly qualified and well-trained visitors and constant watchfulness over the child's health, education, and moral and spiritual development. Supervision of children in boarding homes should also involve the careful training of the foster parents in their task. Supervision is not a substitute for the responsibilities which properly rest with the foster family.

7. *Care of children of illegitimate birth.* The child of illegitimate birth represents a very serious condition of neglect, and for this reason special safeguards should be provided for these children. Save for unusual reasons both parents should be responsible for the child during its minority, and especially should the responsibility of the father be emphasized. Care of the child by its mother during the first nursing months is highly desirable, and no parents of a child of illegitimate birth should be permitted to surrender the child outside of its own family, save with the consent of a properly designated State department or a court of proper jurisdiction. More adequate and humane treatment of such cases in court procedure and otherwise will result in greater willingness to have them considered, which is in line with the protection needed. The whole treatment and care of the unmarried mother and her child should include the best medical supervision and the widest opportunity for education under wholesome, normal conditions in the community.

8. *Rural social work.* Social work for children in rural parts of the country has been neglected. The essential principles of child-welfare work should be applied to rural needs, and agencies for rural service encouraged.

9. *Recreation.* The desire for recreation and amusement is a normal expression of every child and an important avenue for moral education and for the prevention of delinquency. It should be the concern of the State that wholesome play, recreation, and amusement be provided by cities and towns and that commercialized recreation be supervised and safeguarded.



10. *Juvenile court.* Every locality should have available a court organization providing for separate hearings of children's cases, a special method of detention for children, adequate investigation for every case, provision for supervision or probation by trained officers, and a system for recording and filing social as well as legal information. In dealing with children the procedure should be under chancery jurisdiction, and juvenile records should not stand as criminal records against the children. Whenever possible such administrative duties as child-placing and relief should not be required of the juvenile court, but should be administered by existing agencies provided for that purpose, or in the absence of such agencies, special provision should be made therefor; nor should cases of dependency or destitution in which no questions of improper guardianship or final and conclusive surrender of guardianship are involved, be instituted in juvenile courts.

The juvenile victims of sex offenses are without adequate protection against unnecessary publicity and further corruption in our courts. To safeguard them, the jurisdiction of the juvenile court should be extended to deal with adult sex offenders against children, and all safeguards of that court be accorded to their victims.

In all cases of adoption of children, the court should make a full inquiry into all the facts through its own visitor or through some other unbiased agency, before awarding the child's custody.

11. *Mental hygiene and care of mentally defective children.* The value of the first seven years of childhood from the point of health, education and morals, and formative habits cannot be overestimated. Throughout childhood attention should be given to the mental hygiene of the child—the care of the instincts, emotions, and general personality of the child, and of environmental conditions. Special attention should be given to the need for training teachers and social workers in mental hygiene principles.

Each State should assume the responsibility for thorough study of the school and general population for the purpose of securing data concerning the extent of feeble-mindedness and subnormality, and should make adequate provision for such mentally defective children as require institutional care, and provide special schools or classes with qualified teachers and adequate equipment for such defective children as may be properly cared for outside of institutions. Custodial care in institutions for feeble-minded children should not be resorted to



until after due consideration of the possibility of adjustment within the community.

12. *Scientific information.* There is urgent need of a more adequate body of scientific literature dealing with principles and practice in the children's field of social work, and the meeting of this need is a responsibility resting on those so engaged. Careful interpretation and analysis of methods and results of care and the publishing of these findings must precede the correcting of many present evils in practice. Boards of directors, trustees, and managers should particularly consider participation in the preparation of such a body of facts and experience as being a vital part of the work of their staff members.

13. *Child-welfare legislation.* The child-welfare legislation of every State requires careful reconsideration as a whole at reasonable intervals in order that necessary revision and coordination may be made, and that new provisions may be incorporated in harmony with the best experience of the day. This Conference recommends that in States where children's laws have not had careful revision as a whole within recent years, the governor be requested to take the necessary steps for the creation of a child-welfare committee or commission. It is also urged that the President of the United States be asked to call a conference in conjunction with the governors of the various States, to consider the whole question of the child-welfare legislation.

## CHAPTER XXIX

### FINANCIAL FEDERATIONS AND COUNCILS OF SOCIAL AGENCIES

#### 105. FEDERATION OF SOCIAL AGENCIES<sup>1</sup>

The great and growing number of unrelated private social agencies in our bigger cities is creating a condition that demands correction for the good of social work. Organizations have increased in one large city at the rate of three a year for the last fifteen years until the number that raise budgets by public solicitation is one hundred and one. This license to establish agencies at will has created a wide diffusion of administrative responsibility centering on fragments of the social problem, and not on the social problem, with a control of the separate agencies lodged in themselves and for themselves, instead of in the community and for the community.

Out of the welter of competition inevitably bred by such a system has come great financial waste, slatternly standards of work, and a bewildered, skeptical, and grudging public.

The most obvious fault that springs from maintaining so many separate and independent administrative units is financial waste. Before any efforts at correction were made in the city with the one hundred agencies, the cost of solicitation ranged from 1 and 2 per cent in old movements to as high as 66 per cent in one that used peculiar methods. A general average of 15 per cent prevailed after eliminating the spectacular wastrel. When we realize that it has already been demonstrated that money can be raised for a whole community at percentages running from 5 to 10, one reason is evident why the business man complains of overhead expense.

Waste appears again in purchases. Buying has become an art governed by certain methods which operate for lower prices. Standardi-

<sup>1</sup> By William J. Norton, Secretary of the Detroit Community Fund. Adapted from "City Planning in Social Work," the *Survey*, Vol. XXXVI, No. 24 (1916), pp. 581-584.

zation of goods, purchases at favorable market times, lump-buying, and competitive bids produce low prices. Eleven organizations uniting lately on a year's contract for coal saved \$650. And coal is only one of several hundred articles to which the same practice might be applied.

Another waste is in salaries. Social workers fight this statement, and when it is advanced against the cost of salaries of charity agents and workers in the field they are right. We need more and better paid workers in the field and we will have them, although their work could be reorganized so as to secure much larger humanitarian results from the same staff. But there are other salaries than those in the field. Up at the top we are supporting duplicating offices which could be combined. The salaries and the officers thus released could be put to new uses. Greater efficiency and wider human service would flow from the combinations; and the cost of clerks, accountants, telephones, equipment, and other expenses would be freed.

A waste that runs into untold dollars is to be found in the stupid limitations placed on many endowments. Enough has been said to point out some of the most apparent ways in which money has been wasted. It is true beyond a doubt that a city raising a million dollars a year for current expenses could save not less than one hundred and fifty thousand dollars by placing its work upon an efficient basis. And a great increase in human service would automatically come about.

But waste of money in an extravagant nation is insufficient proof to stir a profession into reorganizing itself. That greater and far more important waste—inferior human service—which we are surely getting, ought to come nearer to doing this. Duplication in family work has been an open sore since the beginning of philanthropy in spite of efforts to control it. Two cities have prepared statistics this year covering their central registration bureaus. In the smaller city duplication occurs in one case in every seven and in the larger city in one case in every five. Cases in which two or three agencies work are common, and cases which involve many organizations are not infrequent. A case came to the attention of one of these bureaus last winter wherein fifteen organizations and several individuals had participated in a six months' period.

There are not many nursing organizations in any city. Yet an examination of nursing cases not long ago disclosed single families visited

by tuberculosis nurses, school nurses, quarantine nurses, maternity nurses, infant welfare nurses, and visiting nurses.

It cannot be denied that the rapid establishment of the numerous agencies which weave this web of duplication has brought about a great lateral expansion of service. But that growth looms much as some city government might in which every citizen had been given free rein to create and conduct independently any department just as the whim struck him. There would be plenty of food for mirth in watching two rival street cleaning departments at work in such a city. But this very condition has been bred in community service by its lack of plan. Two cities in the middle west support two competing societies for the prevention of cruelty to animals, the second organization having been started in both places because of personal quarrels among the staff and board members of the parent society. In a city of the north two day nurseries exist within ten doors of one another and wrangle over the territory while great crowded areas beyond them go without.

With such a tangle of duplicating lines is it any wonder that standards of work in every field of social endeavor range all the way from very good to very poor with a too frequent emphasis on the poor? It could scarcely be otherwise when over half of the agencies in the city with the hundred organizations get along on budgets of not more than four thousand dollars each, out of which they pay rent, equipment, telephone service, supplies and postage, hire an executive, an extra worker or two, and stenographic service.

Of course they do good work; just as good as the handicaps that master them will permit. But it is not fair to expect a broad outlook or high standards of practice from a little organization with a little budget, a hundred or two supporters, and a chief worker with perhaps two transient helpers, who must plan the work, execute the plans, carry on educational propaganda, scheme to avoid duplication, take charge of raising money (for after the first two years the task of raising money falls heavily on the social worker in two-thirds of the cases), keep a committee interested, and take care of office details.

Nor is it fair to expect a uniformity of high standards while the lady of leisure, the gentleman of wealth, and the worker with a call to service, persist in regarding separate agencies as their own property, and resent the public's right to ask questions.



A third weakness, the full extent of which only a few know, is inbreeding of support and interest. The contributor senses this better than the social worker because its unpleasant offspring are thrust upon him every day. Social work will not accomplish its really great purposes until it has mastered a way of getting the intelligent and contented support of a steadily expanding group of citizens.

This is just what it has not done; for the task of educating citizens only partly aware of what it is after, and of generating interest in widening circles of new people, is so difficult and expensive that it calls for money, a highly specialized service, an intelligent, coordinated steering of the whole field of educational publicity and of solicitation. At present each agency, being too weak to bear the burden of such a service, is forced along paths of least resistance, limited to a small sphere of operation, and thrown back upon the known generous for its life and its support. Two large cities found that the ratio of supporters of philanthropy to the population was one in fifty; and this ratio was not appreciably diminishing. Indeed in one of them evidence indicated that it might be increasing.

### *Raising Money*

Thus has been generated a centripetal force driving the great bulk of solicitation back within the limited band of several thousand people in any city who have become known as givers. Competition grows increasingly keen as agencies multiply; the getting of money increasingly hard; and the giver increasingly confused. It is true that the largest givers, a few hundred who carry 40 per cent of the load, are not annoyed at the appeals. Being deeply interested in philanthropy, they rather enjoy the requests because they get emotional exercise from them even if their intelligence is not enlivened.

But the heavy majority of givers, who carry 60 per cent of the burden, are annoyed beyond measure at the increasing flood of begging. Many of them, who may give much or little but who are very important because of their energy and leadership, are in business. And being good at business they realize at what enormous cost the duplication of letters and calls is made. They resent the idea that so much of their money should go to bolstering a cumbersome, hydra-headed machinery of philanthropy, which very clearly, to them, con-

sumes within itself too much of its own potential efficiency for actual service.

The same concentric whirl turns up again in attempts to educate the general public. Most people are single-minded when crossed by circles of life outside their own. Their interest at best is an indifferent interest. And the little knowledge they have of social work is badly befuddled by the letter-heads with peculiar titles, by the annual reports that tell no story, and by the other reports that are neither popular nor scientific. Editors misunderstand the agencies, because the agencies misunderstand the editors. Social work has little knowledge of what the public thinks.

Altogether there is a general failure of organizations to deliver their messages and to receive return messages from the man outside because skilled interpreters cannot be maintained on limited budgets planned for other ends. No one should be surprised, therefore, that many of these uneducated givers firmly believe, and not entirely without justification, that some social workers start agencies to give themselves jobs and that some unnecessary agencies are kept going to maintain those jobs, and for the sake of the honor attached to being one of their officers.

Various attempts at correction have been made in the past which have gathered so much force in the last decade that their tendencies are now clearly defined. These may be summed up as central registration bureaus, hospital purchasing bureaus, endorsement committees, councils of social agencies, federations of finance, community trusts, and federations of federations.

Before examining them to see if they are solvents for the present chaos, let us get a clear understanding of what experience teaches must be the minimum requirements for any successful curative scheme. Three fundamental things must be injected into a successful plan: intelligent, devoted community control; administrative reorganization; and long-visioned planning, based on technical knowledge, to be sure, but above all things else upon human understanding. And while these are being secured, and afterwards, absolute freedom of thought on political, economic, and religious subjects, the power of initiative and the capacity for growth must be preserved. The right to differences on matters of policy by the separate agencies must be retained and as much freedom of action as is consistent with the general good.

The paramount thing is control in the interests of the community. No plan that does not bid for this has hope within it. Now social workers as a rule are afraid that the surrender of control over social work will destroy what they call the individuality of their organizations, their own initiative, their freedom to think, and the great sentiments and passion that are the driving power in social work. Hence they have been inclined to balk at any plan carrying real control and their counter plans have shown evidences of being denatured. Therefore we must reassure ourselves by discovering just what community control means.

To begin with it is not synonymous with government control. Political government is one expression in some departments of the life of a community; but it is not the only one. Indeed at this time universal dominance by the political power is the expression of democracy in only a few parts of the social structure. It is spreading slowly through many parts, but the ultimate growth is a thing of generations beyond ours. Neither does the necessary community control involve a surrender to a superimposed body of the determination of policies, or of the ordinary administrative machinery by religious bodies over their own social institutions, or by boards of trustees over their separate agencies.

If however the agencies, their staffs, their trustees, and their donors, which represent now about the extent of community intelligence and interest in social work, would join in establishing cooperative administrative machinery to conduct those phases of work where waste now prevails, and the large social planning and steering; and if they would continue to cooperate in running that machinery, and in abiding by the decisions of the majority on questions of organization, administration, placement of function, and standard methods, an effective control would be created. If the same group would lay the prime emphasis of their planning and organization upon community needs instead of separate agency needs the control would become one for the community. And it would retain and strengthen the great dynamic human motives which set social work upon a hill.<sup>1</sup>

<sup>1</sup>For further discussion see W. Frank Persons, *Central Financing of Social Agencies*, Columbus Advisory Council, Columbus, Ohio, 1922; also Francis H. McLean, *The Central Council of Social Agencies*, American Association for Organizing Family Social Work, New York, 1921. — ED.



*Administrative Reorganization*

Let us reassure ourselves once more over the needed administrative reorganization. There should be a gradual pooling of, not a surrender of, common functions, such as collections of contributions, accounting, buying, direction of educational publicity, the collection, analysis and interpretation of statistics, the keeping of records and the planning of new work. There should be a better segregation of the duties of separate agencies which would lead eventually to some consolidations. And we should not be afraid to face them. There should be a reorganization of field work based upon a segregation of function and a districting of the city. And in all this there need be no surrender of freedom of the individuality of organizations that survive the consolidating process, or of control of policies or methods by denominational and national bodies over their branches.

How have the attempts at correction already afield met these aims? It is plain that central registration, hospital purchasing, and endorsement bureaus are fragments of a complete plan. Registration and purchasing bureaus have hit at case duplication and waste in buying, which are single results of the greater evil. They were never proclaimed for anything more ambitious. They should be expanded as departments of the new cooperative central administration.

Endorsement committees have been limited in their sphere of work also, although they have been louder in their claims for a place in the sun. Being superimposed on philanthropy without real control and not too much understanding, they have confined themselves to weeding out dishonesty, preventing some new agencies, and raising standards, with a general emphasis on business instead of service standards. Because of the slow growth of centralization they should be taken into the cooperative machinery as a department to perform their present functions. Possibly for reasons to be explained later centralization will never be a fully completed circle in which event endorsement departments might continue indefinitely for out-of-town solicitations which are legion, for the few outstanding societies and to act as efficiency engineers for the internal group.

At the other extreme from these three movements lie federations of federations such as the St. Louis Conference of Federations and the Cleveland Social Welfare Council. Plainly a group submitting to co-



operative control must win cohesion through homogeneity of ideals and purposes. The federation of federations contains divergent, not homogeneous, forces. It tries to join all the active forces of a city, government, social and civic work, religion, women, commerce, and labor.

The forces of disintegration here are so powerful, and will continue to be so powerful while the war between capital and labor and between good government and spoils government lasts, that such an alignment can hope to be little more at this time than a very loose committee with casual suggestive functions. Even so it will be of great help in community planning although its chief assistance must be in plans upon which there is little difference of opinion and not in creating or conducting them.

### *Three Means of Reorganization*

Three movements remain with better promise of reorganizing social work, councils of social agencies, federations of finance, and community trusts. The first two aspire after a real city union of existing agencies, while the third although not directly affiliating itself yet with today's societies, has within its potentialities a power to force its will upon them at some time in the future.

With one exception the cities having councils of social agencies have approached the common task quite differently from the cities having federations of finance. These differences are important because social workers are inclined to adhere to the council idea while the federations in most places receive their impetus from business men. Two main differences separate the movements. One lies in the scheme of organization; the other in a conception of things to be done and the means of approach. Councils of social agencies are actual associations of organizations governed by delegates selected by the organizations. An executive committee and officers chosen by the delegates furnish guidance. The movement therefore is essentially cooperative.

Federations of finance are not so clearly cooperative. Certain functions clustering about the collection of current revenues have been pooled and turned over to a separate board of trustees, of whom only one-third are selected by the agencies, one-third by the donors, and one-third by a public official, or some self-anointed public official,

usually the president of a chamber of commerce. This last third is supposed to represent the community.

In their conception of things to be done councils, differing again from federations, have centered attention on correcting low service standards; on establishing devices for removal of duplication, such as central registration bureaus where they did not exist; on promoting surveys and new work, and on cooperating with endorsement committees for improving business methods. Financial waste, inbreeding of support, public annoyance, and poor planning have not been attacked. Councils have created the safest organization to which control of the muddled situation can be entrusted, but so far they have been hollow organizations to which control has been denied.

Federations, on the other hand, through the centralization of current revenues, have taken the direct path to community control, and as a result have been able to strike effectively and at once at financial waste, inbreeding of support, and public bewilderment. Furthermore they have placed themselves in position to proceed progressively against all the other evils of bad planning.

The attitude of the public towards the two sets of undertakings is shown by the fact that federations have been able to support capable administrative staffs with segregated functions while councils have been obliged to go without staffs and to do their work through voluntary committees.

One last form of organization, the community trust, remains to be discussed. In brief, it is an attempt to free endowments from destructive limitations imposed by donors and to mobilize them in a central fund under central direction for intelligent community use. The movement is chiefly important for its possible effect upon the future because none of the trusts have much money on hand. One great contribution has come out of this movement, the big survey launched in Cleveland, which is to furnish knowledge of social conditions necessary for real planning.

Aside from their undertaking this function, which we will recall is the third essential for any plan that succeeds, the two things to note about trusts are a peculiarity of organization and the fact that they shouldn't exist. The standard scheme of organization provides for a minority representation on the board of trustees from a single commercial trust company with the fiduciary administration in the hands

of the same corporation. The jealousy that would be bred among other banks possibly resulting in several rival trusts in the same city is the most obvious of several dangers raised by such a plan in any city except the city of its origin. Moreover, freeing endowments for community use as much as they can and should be freed, is simply one function for a community organization and should not be permitted to stand out alone. Such permission is a blanket permission for all kinds of disintegration before community planning has struck its stride.

The experience then of twenty odd cities experimenting with some form of community union would indicate the following plan as the most promising of large results. The main organization should be that generally in vogue in councils of social agencies. Unlike federations, councils are truly cooperative. Ample provision has been made for participation of contributors through trustee delegates. Delegates from church federations, commercial clubs, women's bodies, and public departments, represent the interested public. Social workers have a prominent place on the guiding committee which enables the leavening of the ideas of contributors by actual debate with professional workers, and the tempering of the ideas of workers by talk across the table with contributors. The selection of the delegates and of the guiding committee is so diffuse and safeguarded that it would be very difficult for any self-centered group to capture it. This is not true of any other plan that has been devised.

But while such a body is safe from raids, it has the capacity within it to become just as sensitive to just public criticism and popular currents as has the federation. Moreover the central organization is big enough, flexible enough, and democratic enough in conception to permit the undertaking of varied kinds of cooperative service by entirely different groups. Thus a limited circle might demonstrate central purchasing, while quite another group proved the practicability of central collecting, and still a third group worked upon the solution of a race problem. This is less easy in federations because everything revolves about centralization of funds, and those not sharing in it are automatically debarred from any federation activity. A disintegrating force is injected, as evidenced already in one city by the formation of a hospital association outside the federation.

When it comes to a winning of control, federations should be copied, not councils. Much as we may dislike it, the road to control lies



through revenues, because no control can be had without capturing the public mind in behalf of community union, a feat which must be coincident to centralizing subscriptions and establishing the departments that are necessary for that process. It is also true that the necessary administrative departments for the whole plan cannot be continuously maintained without central collection.

There are many bogies about central collection as well as many real difficulties; and both can be overcome only by demonstration and time. In the average city all eligible agencies will not join in it at once. Consequently it should not be forced. Neither should it be delayed. The main body can grant permission for the establishment of such a department by those that have the vision to make the venture. This department should be cooperatively conducted by a joint committee of those participating. More money, more givers, and a better understanding of the public, the inevitable fruit of such a collecting group, will bring the other agencies into it in time and secure a gradual widening of control.

Similar departments for accounting, buying, and publicity can be established for those willing to begin. Any agency may share in one and not another. Central registration and endorsement are logical bureaus of the main organization. So are bureaus for securing designated and undesignated endowments. (Endowments already given or future endowments given direct to agencies must not be controlled by the central body.) Standardization committees fit easily into such a plan and the necessary moral support is gradually acquired by the whole body to put the standards into effect.

The third main requirement for good planning, a community eye to see social facts and a community brain to analyze them, would come in the course of time from the establishment of a survey department, a venture so big and so lacking in popularity that only a great community body, a heavy endowment, or the government itself can hope to maintain it permanently. Not the variety of survey now so common, but a statistical bureau, plus a photographic gallery, plus analysts, plus public interpreters, all going the whole year round and every year. It is only by such means that new social needs and the changes brought about by the agencies and the other forces of a city, can be intelligently gauged.<sup>1</sup>

<sup>1</sup> Exemplified in the surveys conducted by the Cleveland Foundation.—Ed.



The forces of particularism are still dominant in city social service. Social workers must not be blamed for this because it is the tradition of the country. These forces are giving way very slowly. So the building of a community union is the task of years of patient effort and not of a single year. It is probable that no complete union will come about in this generation. There are stagnant agencies doing excellent bits of ameliorative work which will stand out against it for a long time to come. But that is no reason for delaying the undertaking. And its steady growth in any city will open new avenues to human service and the coming brotherhood that will amaze the plodding worker of today.

After all, it is not the curing of waste and the faults looming so large just now that gives its promise to united effort, but the freeing of the body of social work so that it may stand erect and stride forth boldly and more certainly in its quest for a soul for men.

#### 106. HISTORY OF THE FEDERATION AND COUNCIL IN CLEVELAND<sup>1</sup>

The Federation plan in social work, as finally consummated in Cleveland in 1920 and as reflected in the Community Fund campaign of last November, is the result of a studied evolution covering fifteen years. The beginning of this development was made in 1907 when the Chamber of Commerce began a study of charitable and philanthropic agencies in Cleveland. This undertaking enumerated all the philanthropic agencies which had come into existence in the city beginning from the earliest day when neighborly assistance by the early settlers required the addition of institutional provision to care for sickness and destitution. Cleveland had shared with other cities in the movements and waves of development which gave rescue missions, church charities, children's agencies, relief societies, Y.M.C.A. and Y.W.C.A., Associated Charities, and kindred organizations to our American communities.

The study by the Chamber of Commerce, with the co-operation of executives of charitable organizations and members of their boards,

<sup>1</sup>By Sherman C. Kingsley, Executive Secretary of the Welfare Federation of Philadelphia. Adapted from the *Cleveland Year Book*, pp. 204-217. Copyright, 1921, by the Cleveland Foundation.

afforded the city an inventory of its divers good causes—their number, objects, management, amount of property, the number of their subscribers. This step was followed by the creation of a Committee on Benevolent Associations. Through this committee, the Chamber undertook the work of endorsement of agencies which solicited funds in the city. This practice resulted in a set of sanctions and standards, since then widely copied, to be observed by agencies which expected to merit the interest and support of the community. The activities of each body wishing endorsement were reviewed annually and if found satisfactory an endorsement card was issued.

The Federation idea followed logically from experiences in this work. With the question of the efficiency and value of the several agencies favorably determined, the question of joint financing and closer co-operation generally quite naturally suggested itself. Through responsibility for endorsement work, the committee became more and more familiar with money-raising efforts and was impressed by the multiplicity of machinery, financial agents, appeal letters, and other efforts incident to gathering funds for the growing number of organizations. The idea was further stimulated by the Federation of Jewish Charities which was taking place in other cities and which had already been successfully effected in Cleveland and stood forth as a compelling example of what unity of purpose in a common field can do.

In January, 1913, the Federation for Charity and Philanthropy was organized for the purpose of collective financing and more effective co-operation in the work of carrying on social service in the city. The people responsible for the movement recognized that most of the agencies engaged in social service in Cleveland had a valuable individuality. Each was conducting a localized campaign on its particular sector of the social betterment field. The Federation plan was formed to strengthen this individuality. It was to help the agencies in the most crucial part of their work, campaign-planning and money-raising, to save them from going many times over the same ground and to give each agency, and Clevelanders in general, a view of the city's social service field and problems as a whole.

The first concern of the Federation for Charity and Philanthropy was the problem of money-raising and distribution. As time went on, the executives of agencies and members of their boards as well as the Federation itself became more and more conscious that the problems

with which they were dealing, questions of standards of work, co-operation, the relationship to national agencies, and other problems needed collective attention.

In 1914 it became clear that there was further need of relating such work in the Federation to agencies not primarily philanthropic but undoubtedly welfare agents in Community development. The Welfare Council was formed, a voluntary combination of social and civic bodies, to co-operate also with the newly created Department of Public Welfare. The particular function of the Council was to furnish a co-operative medium through which all the agencies could consider problems and general administrative questions of joint concern. It had no budget or executive staff. The body itself was made up of delegate representation from the agencies. It was soon seen that without staffing the Welfare Council could not function effectively and that if it put in people competent for efficient leadership, there would be duplication, the lack of essential common leadership, and possibly conflicting authority.

The next step in the evolutionary process in Cleveland was taken in 1917 in the formation of the Welfare Federation of Cleveland. This was a consolidation of the Federation for Charity and Philanthropy and the Welfare Council. The newly created Board was made up of representatives of both bodies. The incorporation of the Welfare Federation, under the laws of Ohio, provides for a membership made up of delegates chosen by the constituent bodies; two members from each. This gave representation to the agencies having membership in the Welfare Federation. Usually, one of these representatives is a paid worker and the other a Board member. The body thus created is called the General Board of the Federation. It holds quarterly meetings and one of its functions is to elect the Trustees who are the governing body of the Federation. This is a Board of twenty-four persons who are elected for terms of three years each. In addition to this, the Board of Trustees, thus elected, is empowered to choose six persons at large for terms of one year each. From the beginning, only those agencies which meet the sanction and standards evolved by the Chamber of Commerce Endorsement Committee have been admitted to membership in the Federation.

The next and greatest step in this evolution in Cleveland was brought about by the war. With its traditions and Federation ex-



periences behind it and in accord with the community spirit which prevails in the city, Cleveland, quite naturally, applied the community action idea to its war relief problems. The War Chest Board was created to raise the city's war relief funds and the successive war need campaigns were conducted under its management. This body was created by the Red Cross War Council, in co-operation with the Mayor's War Board, the Welfare Federation, and other civic bodies. Not only did the city exceed its quota for all war relief purposes in each successive campaign, but during the last two years of the war, the moneys raised included balances needed for local philanthropic agencies. The War Chest Board was composed of thirty men who built up the strongest and most effective money-raising organization that ever existed in the city.

In addition to the success in money-raising, there was developed a community solidarity and spirit through common service which everyone felt should not be lost. Accordingly, after the signing of the armistice, the War Chest body offered its services for perpetuating this effective community method and to raise money for the local agencies and for the share of foreign relief that might be expected from Cleveland in diminishing amounts, for one or more years. The articles of association under which this re-organized Community Fund Council operates, provides for a Board made up as follows: twenty members, chosen by the original War Chest group and their successors; sixteen chosen by the federated agencies; two by the Chamber of Commerce, with the Mayor and Director of Public Welfare as ex-officio members.

The mutual relationship between the Community Fund Council and Federations, the latter, as stated above, made up of representatives chosen by the various social service boards, is provided for through this representative membership on the Board of the Council, through the common secretaryship of the Community Fund and the Welfare Federation, and through community of personnel of committee memberships and staff. General scheme of organization is indicated in the Diagram on page 786.

More than 8900 persons worked actively in the Community Fund Campaign in November, 1920. Over 164,000 persons signed as contributors as compared to 20,000 who previously contributed to the support of the Welfare Federation. Committees are already at work



effecting an organization, building the personnel, and getting ready for the next campaign. Plans for year-round publicity through the press, speakers' bureaus, and the movies are being studied and perfected by the Community Fund Committee. This committee attempts to so present the social problems to the community that the money subscribed to the Community Fund is considered a "voluntary tax." The proportion of social work financed through this "voluntary tax" is far greater than that supported by the taxes assessed by law.

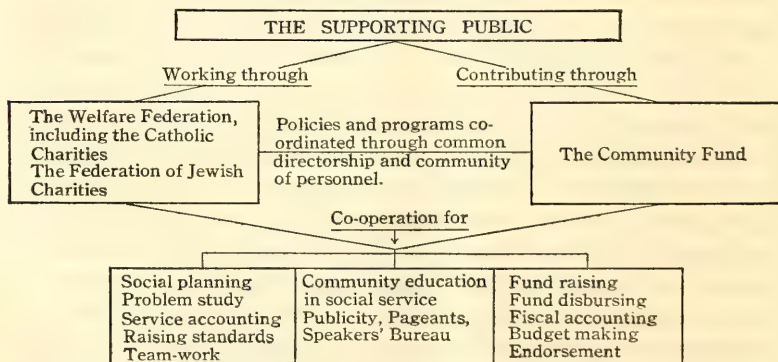
The Budget Committee holds the key responsibility for procedure in the expenditure of the Community Fund. It concerns itself not only with fiscal data but with service rendered and quality of work. This body is appointed by the President of the Welfare Federation through the aid of nominations and suggestions of members of the General Board. It is composed of about fifty people chosen because of their interest, sympathy, and their knowledge of charitable and philanthropic activities of the community and the problems with which they deal. For the purposes of convenience and effective work the organization is divided into seven subdivisions according to their functional activities: hospitals, children's agencies, neighborhood work, family service, nursing and health activities, recreational and educational agencies, homes for the aged. The Budget Commission thus appointed is divided into seven corresponding sub-committees. Budgets are first acted upon by the respective agencies. The Welfare Federation office submits to them, two or three months previous to the close of their fiscal year, budget schedules calling for an analysis of receipts and expenditure under their proper heads. The items for the two previous years under their respective headings are filled in by the Federation office so that each organization has before it the figures for two previous years as a basis for judgment in estimating the next year's needs. After each agency has deliberated, through its officers and committees, and has considered, in the light of previous experience, needs met and unmet, current prices and trends of expense, the budget request is sent to the Federation office. After it has been considered by the Federation office it is ready for reference to the Budget Committee. Hearings are held with each of the agencies and problems are considered. After this process has been completed and each of the agencies heard, the various sub-committees make their recommendations and the budgets as thus recommended are referred

to the entire Budget Committee and the various sub-committees which meet as a committee of the whole. This entire Budget Committee then sends its recommendations to the Trustees of the Welfare Federation and they, in turn, go to the people through the Community Fund. This budget-study and work-planning process constitutes an annual review of the forces in the social service field and problems with which they severally deal. In addition to this comprehensive and special planning and study, monthly financial and service reports are made to the Federation office. This affords the basis on which the monthly distribution of funds is made to the respective agencies. Thus, a central body representing the organizations themselves is in constant touch with the work in the whole field and is possessed at all times with a knowledge of conditions and needs and expenditures. The central office interprets these data and by means of graphic charts and other visual representations seeks to promote standards and most effectively to match resources against needs. These data concern themselves with the trend of prices of commodities, per capita costs in different institutions, and percentage use of capacity in hospitals, children's and other agencies.

The calls for information by the Budget Committee are more searching and fundamental each year. As a result of this growing demand for information, more intensive studies of special problems are made. The three important studies made in 1920 were the Hospital and Health Survey; a study of institutions and agencies caring for children, conducted under the auspices of the Welfare Federation and directed by Henry W. Thurston of New York, assisted by Joel D. Hunter and W. S. Reynolds of Chicago, and others, which has resulted in the establishment of a Children's Bureau in the Welfare Federation; and a study of outing camps, made under the auspices of the Federation and directed by C. E. Gehlke. As an outcome of the camp study, steps are being taken toward organizing camp work so as to utilize continuously the entire capacity of the camps and to co-ordinate their work in a much more efficient manner than has been done in the past. A study of salaries of those engaged in social work was also made at the request of the Budget Committee, by a committee of the Welfare Federation. The recommendations resulting from these studies are usually divided into two main divisions, sent exclusively to the executives and boards of the different institutions, and those of a general

nature which concern not only the respective agencies but philanthropic institutions in general and the community itself. Thus it has come about that a responsible body representative of the community and the interests concerned gives sustained attention and study to the whole social service field. As a consequence, it has come to pass in Cleveland that there are brought to this body projects relating to proposed extensions on the part of existing organizations as well as new enterprises in the social service field. Those who wish to be co-operative and to be assured that their projects are in accord with sound policy; who wish to avoid duplicating or embarrassing pieces of work, already adequately occupying a given field, or which could be made more effective than a newly organized work, quite naturally seek the advice and help that come from these sources. On the other hand, individuals and groups who wish to go ahead quite regardless of such considerations are certain to be challenged effectively by those whom they ask to back them with questions concerning endorsement by this co-ordinating body.

The raising of standards is aided materially through the co-operation of functional groups which have been promoted by the Federation, such as the Children's Conference which has been meeting regularly for several years to study problems of child caring and which was of great assistance in making the study of institutions and agencies caring for children.



FUNCTIONAL CHART OF THE PRIVATE SOCIAL AGENCIES OF CLEVELAND

## CHAPTER XXX

### PUBLIC WELFARE ADMINISTRATION

#### 107. SUMMARY OF THE PRESENT STATE SYSTEMS FOR THE ORGANIZATION AND ADMINISTRATION OF PUBLIC WELFARE<sup>1</sup>

In attempting to present a summary of the state systems in the field of public welfare, the question asked by Lord Haldane's great Committee on the Machinery of Government<sup>2</sup> suggests itself: "On what principle should the functions of departments be determined and allocated?" The reply of the committee is that there are two principles between which at any one time choice must be made, namely: "Distribution according to persons or classes; and distribution according to service to be performed." The opinion of the committee is positive to the effect that the second of these two is the ultimately sound principle.<sup>3</sup> The most superficial examination of the organization in the various states in the field of public welfare shows the need of asking the same question, the lack of any agreement on this subject, and a consequent chaotic variety of experiments in which attempts are made to apply one or the other principle without conscious appreciation of the issues at stake. There are, in fact, few points on which there is anything like universal agreement among the states except perhaps on the point that the field of service is one to be recognized as a branch of the state organization, and even on that point three states have not acquiesced and have not yet created a state agency for such service.<sup>4</sup>

<sup>1</sup> By Sophonisba P. Breckinridge, Ph. D., Assistant Professor of Social Economy in The University of Chicago. From "Public Welfare in the United States," in *Annals of the American Academy of Political and Social Science*, Vol. CV, No. 194 (January, 1923), pp. 93-103.

<sup>2</sup> Great Britain Ministry of Reconstruction, *Report of Committee on Machinery of Government*, 1918 (Cd. 9230), p. 7.

<sup>3</sup> As the result of selecting the former is the tendency to "Lilliputian administration" and a delay in the development of technical and professional standards of service.

<sup>4</sup> Mississippi, Nevada, and Utah.



Because of this great variety of practice, an adequate and accurate summary of the situation prevailing in the states is very difficult. Such a summary should cover at least the following points: (1) the structure and organization of the central authority as to (a) number of members, (b) method of selection, (c) qualification, (d) tenure of office, (e) remuneration, (f) proportion of time given; (2) the number and character of central, i.e., state institutions for various groups of wards; (3) the relation of the central authority to these institutions; (4) the character of the public local organizations in the field; (5) the relation of the central authority to the local authorities; (6) the relation of the central authority to private agencies in the field; (7) the relation of the authority in public welfare to other state services, i.e., that in the fields of health, education, labor, and especially finance; (8) beside these relationships within the executive branch, there arises, in states taking a strict view of the doctrine of separation of powers,<sup>1</sup> the question of appropriate and possible contacts between these executive agencies and the judicial agencies in the field of probation.

Obviously so comprehensive a statement is impossible within the range of an article such as this. Nor is it necessary that all points be covered here when certain matter is easily available to the interested student. The great field in child welfare development will therefore be largely ignored here, and reference is made to the comprehensive publications of the United States Children's Bureau.<sup>2</sup>

Moreover, while it is impossible entirely to divorce this subject from the general movement toward rendering the state governments more efficient and particularly from the effort to introduce more effective methods of fiscal control and to extend the practice of the budget, it is possible here only to call attention to the effect of the one or the other development and to say that a failure to include both movements<sup>3</sup> in one's consideration is to be faced with inexplicable contra-

<sup>1</sup> As in Illinois, see *Witter v. Cook County Commissioners*, 256 Ill. 616.

<sup>2</sup> See, especially, Publications No. 63, *Laws relating to Mothers' Pensions*; No. 70, *Summary of Juvenile Court Legislation in the United States*; No. 71, *State Commissions for the Study and Revision of Child Welfare Laws*; and No. 107, *County Organization for Child Care and Probation*.

<sup>3</sup> See, for example, Thomas, *Principles of Government Purchasing*; Wright, *Report on Fiscal Control*; Haines, *The Movement for the Reorganization of State Administrations*, University of Texas Bulletin No. 1848 (August 25, 1918).

dictions and confusions. Other subjects of vital interest, such as the application of the principles of civil service to the selection of personnel in this field, must also be laid to one side as requiring too wide a detour into the field of general governmental organization.<sup>1</sup>

*Historical sketch.* Subject to such limitations, however, certain general points can be made.<sup>2</sup> The creation by the Massachusetts legislature in 1863 of the Board of State Charities, with powers of supervision and recommendation in relation to the charitable and correctional institutions already established and with administrative powers in the matter of admittance, transfer, and discharge of pauper lunatics, is generally regarded as the beginning of a movement<sup>3</sup> in the direction of creating central or state agencies for standardizing the care, custody, and treatment of persons in distress and recognized as appropriate subjects for public service. Massachusetts was followed by Ohio and New York in 1867; Illinois, North Carolina, Rhode Island, and Pennsylvania in 1869; Wisconsin and Michigan in 1871; and Connecticut and Kansas in 1873. It is not profitable to list the authorities in the order of their creation.<sup>4</sup> The United States Census *Summary of Laws relating to Dependent Classes* makes possible a statement with reference to the situation in 1913 sufficiently complete for the purposes of this article.

The names of the authority created vary from state to state and from time to time in the same state, and differences in name indicate a wider or a narrower scope of work entrusted to the newly created

<sup>1</sup> See for striking illustration of the need of sound practice in this field the controversy, 1914-1916, between the New York State Board of Charities, the New York City Department of Charities, the New York State and New York City Civil Service Commissions.

<sup>2</sup> The interested student is referred to comprehensive and authoritative compilations either now or shortly to be available from the United States Bureau of the Census (see *Benevolent Institutions*, 1910; *Summary of Laws relating to Dependent Classes*, 1913) or the Children's Bureau.

<sup>3</sup> Massachusetts Acts of 1863, chap. 240. A more correct view would probably regard the creation in 1847 of the New York State Emigration Commission, followed in 1851 by the Massachusetts Board of Alien Passengers and State Paupers, as the initial step in the field (see E. Abbott, "Restrictive Immigration Legislation," *Proceedings of the National Conference of Social Work*, 49th Annual Meeting (1922)).

<sup>4</sup> Nor is it implied that all these authorities have had continuous effective existence. In some states there have been intervals when the law was repealed; in others, failure to appropriate have for the time rendered the legislation nugatory.

body as well as the nature of the power given. The Board of Public Welfare created in 1919 in Georgia<sup>1</sup> exercises powers that are "strictly visitorial and advisory." The Illinois<sup>2</sup> department is one of nine executive departments of the state. The Board of State Charities of Massachusetts,<sup>3</sup> for example, created, in 1863, to deal with the state institutions and with the state "poor" who had no "settlement," became in 1879 the State Board of Health, Lunacy, and Charity, was revived in 1886 as the State Board of Lunacy and Charity,<sup>4</sup> relieved of certain tasks connected with lunatics and settled paupers in 1898,<sup>5</sup> when it became the State Board of Charity, which it remained until erected, in 1919, into a Department of Public Welfare.<sup>6</sup> As to structure, it may be noted that in 1913, when all the states except ten<sup>7</sup> had created these authorities, thirty-five of the thirty-eight established<sup>8</sup> were in the forms of boards varying in number from three to twelve. Of these thirty-five boards, twenty-one were state boards of charities or of charities and corrections,<sup>9</sup> nine were boards of control,<sup>10</sup> while in five states<sup>11</sup> there had been adopted the plan of two boards, one salaried and executive known as the Board of Administration, the other unsalaried and supervisory known as a Charities Commission.

<sup>1</sup> Georgia Acts of 1919, No. 186, sect. 6.

<sup>2</sup> Illinois Revised Statutes, chap. 24½, sect. 3.

<sup>3</sup> Massachusetts Acts of 1879, chap. 291.

<sup>4</sup> Acts of 1886, chap. 101.

<sup>5</sup> Acts of 1898, chap. 433.

<sup>6</sup> Acts of 1919, chap. 350. Among the fifteen departments created there were Departments of Mental Diseases, Corrections, Public Health, and Education.

<sup>7</sup> Alabama, Delaware, Georgia, Idaho, Mississippi, Nevada, New Mexico, South Carolina, Texas, and Utah. Delaware had a Tuberculosis and a Blind Commission, and Texas had a State Bureau of Child and Animal Protection.

<sup>8</sup> Oklahoma provided in its constitution for a commissioner of state charities; New Jersey had a commission of charities and correction; Alabama had an inspector of jails, almshouses, and cotton mills; Kentucky had an inspector of institutions in addition to a state board and is not counted.

<sup>9</sup> Arkansas, Colorado, Connecticut, Florida (board of commissioners state institutions); Indiana, Louisiana, Maine, Maryland (state aid and charities); Massachusetts, Michigan, Missouri, Montana (charities and reform); New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, South Dakota, Tennessee, Virginia, Wyoming. See *Census Summary State Laws relating to Dependent Classes*, p. 316 fol.

<sup>10</sup> Arizona, Iowa, Kansas, Kentucky, New Hampshire, Washington, and West Virginia.

<sup>11</sup> California, Illinois, Minnesota, Nebraska, Ohio.

*Objects of the legislation.* These authorities were created to meet two great groups of problems: (1) the diversity of practice, inadequacy of equipment, competitive relationships and often wasteful methods characteristic of the care of wards for whom institutions, whether state or local, had been established;<sup>1</sup> and (2) the same lack of uniformity, the same inadequacy of service, the same wastefulness characteristic of the "outdoor" care of persons in distress given by the local authorities. The object sought was declared to be "to secure the economical and efficient administration" of the public charitable and correctional institutions and agencies<sup>2</sup> for the purpose of reducing suffering, preventing needless misery, and lessening the burden of the taxpayer.

The movement was a natural and inevitable one based, in general, on sound governmental principles. Its progress was, however, impeded by two sets of influence. One influence was that of inertia, inexorably resulting from the number of state legislatures and from the historical and accidental character of the organization in the various states. The other was an influence growing out of the nature of the problem involved; those who were peculiarly moved to improve the service of the poor, sick, mentally feeble, and delinquent were also often especially concerned to keep that service free from the weaknesses of ordinary governmental standards and recognized the peculiar opportunity for graft and mismanagement in the very nature of the tasks undertaken.

The necessity of obtaining the acquiescence of forty-eight legislatures in a program of regard and treatment for the least influential members of the community has placed a heavy burden on those urging the advance. The fear of giving over the poor to new forms of exploitation has led sometimes either to acquiescence in continued incapacity or to the proposal of complicated arrangements not only for securing governmental action, but also for keeping that action constantly under a critical and supervisory scrutiny.

<sup>1</sup> In Massachusetts, for example, in 1863, beside the local almshouses and local prisons there were three state almshouses, a state hospital on Rainsford Island, three state lunatic asylums, a state prison, a state reform school, a state industrial school for girls, and a School Ship (Massachusetts), and, partially controlled by the state, the Massachusetts General Hospital, the Massachusetts School for the Blind, and the Massachusetts School for Idiots.

<sup>2</sup> To quote from the act creating the first Massachusetts board.



*"Supervision" versus "control."* There arose, therefore, early in the development of the authorities, two schools of thought: first, that school whose confidence might be said to rest on consent, who urged the value of the supervisory agencies, unpaid, divorced from partisan politics, having nothing in the way of patronage to offer, and recognizing that ultimate care for the helpless must lie in sympathy, pity, good will, and intelligence; on the other side were ranged those who might be said to be dominated by the ideals of efficiency, who chafed at delay, were shocked at the waste, were confident that organization and administration could hasten the accomplishment of the purposes they all sought.

It was impossible that the authority created should exercise no power. Visitation, inspection, reporting, suggesting are themselves incisive powers and further development was inevitable.<sup>1</sup> And in 1887 at the National Conference of Charities and Correction, Mr. Sanborn, the executive of the Massachusetts board during the early years of its existence, pointed out that of the twelve state boards then in existence

only three or four remain simply advisory in their power and duties, although originally most of them were so established, at least in theory. The Boards of New York, Pennsylvania, Illinois, Michigan, Wisconsin and doubtless of some other states were created with duties of inspection and supervision and with powers of advice and recommendation, and only these; but, in all these states, it has been found necessary or expedient to add executive powers, and to make these Boards, in fact (what those of Massachusetts, Rhode Island, Kansas, and Minnesota have always been in name), a part of the state administration. In New York, for example, executive powers in regard to the support of state paupers and the removal of immigrants and vagrants have been conferred; in Pennsylvania, these powers, and also the summary powers of a Lunacy Commission; in Illinois, very extensive powers of audit; in Wisconsin, the power of the purse over the maintenance of the insane poor in county asylums; in Michigan, executive powers in regard to children placed in families. The Rhode Island Board, which was at first made partly executive and partly advisory, has now complete control of all the state establishments. In Massachusetts, the executive powers of the Board, which were from the first extensive,

<sup>1</sup> In fact, as early as 1881, Wisconsin took the step of creating a Board of Supervision of Charitable, Reformatory, and Penal Institutions, abolishing the boards of trustees of the state institutions, without disturbing the State Board of Charities and Reform, created in 1873 and abolished only in 1891, when the present Board of Control was established. See Laws of Wisconsin, 1881, chap. 298; 1891, chap. 221.

have been enlarged until it is now one of the most important branches of the state administration.

These changes in the function of the Boards are not the result of chance, but indicate what we believe to be the fact, that such authority, when once created in a state, will naturally increase; for occasions arise when power must be lodged somewhere, and no more suitable place can be found for it. No changes, so far as we know, have been made in the other direction—of limiting the duties of these Boards—except when special Boards have been created to relieve the Board of Charities of some part of its increasing duties; and we believe there is no State Board now in existence which possesses less power than when it was first established. This indicates that the confidence originally reposed in them has been justified by their activity.<sup>1</sup>

However, the rate at which the development toward control should take place, the significance in the changes proposed and put through, the perils of relying rather on authority than on developed intelligence, sympathy, and conscience were subjects that could not be ignored in the presence of the great advocates of the conservative school. There were giant figures in those days playing great rôles on the stage of public charitable service; and the voices of Roeliff Brinkerhoff, Timothy Nicholson, F. H. Wines, F. B. Sanborn, Mrs. Josephine Shaw Lowell, still ring out across the years, pointing on the one hand to the peril of letting in the wolves, of overemphasizing the need of economy,<sup>2</sup> a term far from clear, when the word "adequacy" had hardly been introduced into the social workers' vocabulary, and of losing the whole force of local initiative. At the National Conference of 1902, for example, it was urged:

In states where the central board (commonly called a board of charities) is a supervisory board, and the administration of the state institutions is confided to individual boards of trustees or managers, the state which adopts this system secures the benefits both of responsibility in the discharge of executive functions and also of independent inspection, criticism,

<sup>1</sup> *Proceedings*, 14th Annual Meeting (1887), p. 103.

<sup>2</sup> The reports are, of course, from the beginning to the present times filled with pleas for a realization of the differences between true and false economy. See, for example, the *36th Annual Report of the New York State Board* (1902), pp. 15-16; or the *Second Biennial Report of the Kansas State Board of Administration* (1920), p. 8. The great discussion, however, and the great comparison between the relative efficiency of actual control as compared with supervision at its best is Mr. Henry C. Wright's classic study of the *Methods of Fiscal Control of State Institutions*, made for the New York State Charities Aid Association in 1911, now out of print.

and suggestion. In states where the central board is a board of control, the administration of the state institutions may be equally good, or it may be worse or better; but there is no adequate supervision of their methods and results. In other words, the loss is certain, but the gain is problematical.

The proposal to establish a central board of control usually originates, I think, in the brain of some scheming politician, who wishes to strengthen a political machine by the addition to it of the state charitable institutions, which can be effectively used by an adroit and unscrupulous political manager as an aid to the control of caucuses, primaries, and conventions, and in the carrying of elections. They can of course be far more effectively used for this purpose if they have a single head, himself a member of the machine and in sympathy with its general aims. The motive which prompts the suggestion is concealed, and the ostensible motive put forth is the intention to secure better business organization, improved business methods, which appeals to business men, not politicians, and who claim still less to be experts in benevolent work. Into the hands of these schemers those reformers play, who are impatient because reforms grow slowly, with the gradual education of public opinion, upon which they at last depend for moral support, and who imagine that they can be effected by the concentration of authority in a board which can issue and enforce the necessary orders. But does not this authority, this power, already exist? Why is it not used? Why suppose that one set of men will accomplish what several sets of men working in harmony cannot accomplish?

A central supervisory board is apt to be far more active and efficient than a board of control in the matter of arousing public interest in the benevolent work, both of the state and of private individuals or associations, and of educating public opinion on social questions as related to public and private charity. It is natural, is it not, that an executive board which believes itself to be doing all that can or ought to be done, with the means and facilities at its disposal, should be indifferent to public opinion or sensitive to criticism of its methods by the community? But a supervisory board, whose function is criticism, welcomes and stimulates the closest inspection of public and private charities by the public at large, feeling that in such inspection it receives moral support of inestimable value to the state.

Personally I dread the creation of centralized boards of control. They are less objectionable if they have charge only of single groups of institutions, as, for instance, all the hospitals and asylums for the insane or all the prisons. They are also less objectionable in small states than in the larger ones. They would be very much less objectionable if they did not mean the abolition of the supervisory boards, but two central boards cannot ordinarily be maintained in one state. If they could there would almost inevitably exist rivalry and conflict between them.<sup>1</sup>

<sup>1</sup> *Proceedings of National Conference of Charities and Correction*, 1902, p. 147.



Stress was laid, on the other hand, on the possibility of reduced cost, of increased accuracy of accounting, of greater uniformity of reporting, of the elimination of local authorities, of improved service, of better discipline among employees, of relief given executives of institutions from financial problems, of the elimination of party politics, of the equitable assignment of the state's resources among the various institutions and of the general advantage of applying to charitable service principles worked out in the field of business.<sup>1</sup>

These arguments are, of course, unanswerable. The necessity of an authoritative central agency is now fully recognized, and the question is now rather to what extent is public opinion prepared and in what form is the power to be granted. These divergencies of opinion, found determining the phrasing of the most recent legislation, express themselves in the terms supervision, control, management, administration, terms that now may be said to represent difference in degree rather than in kind of authority. And so, as these controversies have continued or have been renewed the tendency to which Mr. Sanborn referred in 1887 has continued, new laws have been enacted, old ones have been amended with great variations in the degree to which the central authority has been given power and as to the kind of power bestowed but moving, on the whole, toward a greater incisiveness and in general toward a wider range of control.<sup>2</sup>

*Devices for control.* A further word should be said at this point concerning the devices authorized on the part of the central authority. They are, in general, visitation, inspection, prescribing forms for record-keeping, formulating rules and regulations, requiring reports, granting permission for organization, periodic certification, granting licenses, with or without the power of revocation, compulsory conference and consultation, selection of personnel by nomination, appointment, or confirmation, requiring estimates of expenditure in advance, approval of accounts, sharing the cost when the work is approved, meeting the entire cost.

The great questions then have been (1) to what extent was the mere force of central knowledge with its possibility of publicity ade-

<sup>1</sup> See, especially, *Proceedings of the National Conference of Charities and Correction*, 31st Annual Meeting (1904), pp. 180, 181.

<sup>2</sup> This does not mean that the particular authority known as "public welfare" has been given wider powers, but that wider service in meeting the needs of persons in distress are undertaken by the state.



quate, and to what extent should be granted such other powers as have been enumerated, especially those related to purchasing and to the selection of personnel; (2) to what extent should the central authority stimulate, encourage, and standardize the institutional and local organizations and to what extent should those organizations be absorbed; (3) when should agencies specialized by function be created and relieve the agency attempting to deal with many groups of wards; (4) what should be the relationships among these services, those allocated on the basis of function and those allocated on the basis of ward; (5) how could the supervisory and critical element so emphasized in the early days be retained as the organization took on more and more the orthodox hierarchial governmental form; (6) how, in an economic and industrial system under which the wage scale leaves great numbers of persons below the level of adequate living, can the doctrine of adequate care for the wards of the state be reconciled with the apparent interests of the taxpayer?

*The present situation.* In the face of these questions, the present organization of the central authority in the various states may be briefly summarized.<sup>1</sup>

Three states still have no central authority.<sup>2</sup> Eleven<sup>3</sup> still have unpaid supervisory boards; ten<sup>4</sup> have administrative boards that are

<sup>1</sup>As has been said, such a summary is far from adequate. As to its accuracy, one can plead only every effort to secure accuracy by consultation with the session laws since 1913, by personal inquiry since the winter of 1922 addressed to the executives of the departments or to the Secretary of State of the various commonwealths in which the legislature sat, where the session laws are not yet available.

<sup>2</sup>Mississippi, Nevada, Utah (which has had a Commission of Inquiry for two years).

<sup>3</sup>Colorado, Delaware, Georgia, Indiana, Louisiana, Maine, Maryland, Montana, New Hampshire, New York, North Carolina.

<sup>4</sup>Connecticut, Florida, Kentucky, Oregon, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Wyoming. Connecticut and Virginia are included here, although their boards have been in each case given the name Department of Public Welfare, since in each case the change of name carried no change in relationship to other branches of the government and in the case of Virginia no change in character or function. See, for similar change in the local field, the Massachusetts act changing the name of Boston Overseers of the Poor to Boston Commissioners of Public Welfare, without altering the character, powers, or duties of those officials (Laws of 1921, chap. 146).

either unpaid or ex officio; ten<sup>1</sup> have salaried boards of control; four<sup>2</sup> maintain two (or more) separate boards, one mainly supervisory, one mainly administrative; ten have created departments, eight under the general name of public welfare.<sup>3</sup>

As has been suggested, other features besides the general character of the authority are of interest. It will, however, not pay to review the whole field from these other points of view. A number of states<sup>4</sup> recognize the principle of geographic representation in the selection of the members of the board; many now require the presence of a woman or of several women;<sup>5</sup> several require the presence of certain types of experts.

*Selected problems of departmental organization.* Perhaps the most interesting considerations suggesting themselves in connection with the development of departmental schemes of organization, are those of the attempted creation of one agency within which shall be combined the advantages of supervision and of control. Under the Illinois departmental organization, for example, an attempt was made to retain the value of the critical and supervisory service so emphasized in the older days and between 1910 and 1917 embodied in the State Charities Commission, coördinate with the State Board of Administration. Under the departmental plan, there is a director at the head. Under him are a group of salaried executives, superintendents respec-

<sup>1</sup>Alabama (Control and Economy), Arizona (Board of Directors of State Institutions and Purchasing Agent), Iowa, Kansas, North Dakota, Oklahoma, South Dakota, Texas, West Virginia, Wisconsin.

<sup>2</sup>Arkansas (really three as there is an honorary board for the administration of the penitentiary), California (where there is the State Board of Charities, the Department of Institutions, and a Board of Finance), Minnesota, Missouri (a State Board of Charities, a Board of Managers of Eleemosynary Institutions, and a Department of Penal Institutions).

<sup>3</sup>Idaho, Illinois, Massachusetts, Michigan, Nebraska (without either abolishing or absorbing the Board of Control), New Jersey, New Mexico (really a Department of Health without responsibility for the charitable or penal institutions of the state), Ohio, Pennsylvania, and Washington (Department of Business Control).

<sup>4</sup>For example, Delaware, Florida, Kentucky, New York.

<sup>5</sup>The requirement concerning women represents political consideration for a large newly enfranchised group, and also recognizes the woman's assumed peculiar intelligence concerning the domestic problems involved in institutional management and concerning child care.

tively of charities, of prisons, and of parole, and an alienist and a criminologist. Under the director, also, is an unpaid Board of Public Welfare Commissioners, whose duties are to make investigations and to offer recommendations to the members of the department, or to the Governor or to the General Assembly on the request of those officials or on the initiative of the commission itself.<sup>1</sup> The members of the board as well as the executive members of the department are appointed by the Governor and Senate and thus draw their authority from the same source. It is to be noted, however, that the responsibility for making rules for the conduct of the department, for laying before the Governor the needs of the department, for making estimates and assignment of appropriations within the department rests with the director, while the Department of Finance, the first named in the list of departments, is given authority to examine at all times the accuracy and legality of accounts, receipts, and expenditures of the various departments. The disadvantage under which the board suffers at any moment of serious question or difference of view is obvious. No special slur was therefore cast on the board when after three years in office the first director of the department assembled a committee of social workers from all over the state, instead of making use of the board created for this purpose, saying that he did not know what should be done in the field of child welfare and should like advice on the point!<sup>2</sup> The Massachusetts authority had, from the first, been vested with certain administrative functions, and, under the law of 1919,<sup>3</sup> the commissioner, who is head of the department, is appointed by the Governor and Senate for a term of not more than five years as the executive and administrative head. He is, however, given a revolving board<sup>4</sup> of six unpaid members appointed for terms of three years. This board is authorized "to assist the commissioner . . . to keep informed of the public interests with which the department is charged, to study and investigate questions arising in connection herewith, to consider, formulate, and recommend proposals, to advise with the Commissioner concerning policies. . . ." It is clear, however, that the board, being advisory to the commissioner and having no independent

<sup>1</sup> Illinois Revised Statutes, 1919, chap. 24½, sects. 3, 5, 8, 16, 25, 36, 37, 39.

<sup>2</sup> *Report of the Illinois Department of Public Welfare*, Children's Committee, December, 1920.

<sup>3</sup> Acts of 1919, chap. 350, sect. 88.

<sup>4</sup> Two of these must be women. See section 90.

provision for making studies or for investigation on a wider scale than by individual observation and conference, will probably find itself limited to advising at the request of the commissioner, who may be so delayed in acquainting himself with the problems of his department that he finds difficulty in knowing just when to ask for counsel.

The New Jersey Department of Institutions and Agencies<sup>1</sup> has at its head a State Board of Control of Agencies and Institutions<sup>2</sup> (the governor and eight appointed members, one a woman, serving without pay in revolving terms of eight years), which appoints the commissioner, who although appointed by the board is described as being one of the two component elements of the department,<sup>3</sup> the board being the other.

### *Scope of Departmental Responsibility*

An interesting question is that relating to the scope of the work of the department. In this is involved the question of relationship to other branches of the state government as well as that of relationships within the department. The early boards had to do with "charities and corrections." "Charities" meant paupers, lunatics, idiots, possibly the physically handicapped—blind, deaf, and crippled; "Corrections" meant chiefly prisoners in jails and lock-ups. But paupers were often sick, and lunatics being non-able-bodied were often cared for as paupers, and prisoners were mostly poor. And the misery of all the groups therefore showed itself in the form of destitution.<sup>4</sup> When so many maladies had the same outward manifestation it was natural to place them all under one category. It was also inevitable that progressive analysis would lead to the multiplication of special and often of preventive service. Three fields of work were therefore recognized in the second incarnation of the Massachusetts authority,<sup>5</sup>

<sup>1</sup> Created in 1918 under the name Department of Charities and Corrections, Laws of 1918, chap. 147, and given in 1919 its present name. Laws of 1919, chap. 97, sect. 2.

<sup>2</sup> Styled under the Act of 1918 the State Board of Charities and Correction.

<sup>3</sup> Laws of 1919, chap. 97, sect. 2.

<sup>4</sup> It is interesting to note that, when the commissioners of a few state boards assembled in 1872 and proposed a program to be presented to a larger gathering, all the items had to do with the field in "corrections." *Proceedings of the Ninth Annual Conference Charities and Corrections*, p. 11 (1882).

<sup>5</sup> When it became the Board of Health, Lunacy, and Charity,



but, in 1919, when it has been given the most general name by which it has ever been known, it occupies the most specialized field it ever occupied and covers in fact only problems of destitution and of child-care.<sup>1</sup> The Department in Illinois covers the field covered by the Board between 1869 and 1910, that included in the authority possessed by the Board of Administration and the State Charities Commission between 1910 and 1917, and in addition, that occupied during that period by the Boards of the two penitentiaries and the Reformatory, the Board of Prison Industries, the Penitentiary Commission and the State Board of Pardons. In other words it covers, but now with full authority, the old field of Charities and Corrections. The department in Pennsylvania continues under its new title and new organization the lines of demarcation between relative emphasis on supervision and suggestion for other groups of wards and relative emphasis on administration in the case of lunatics, which were before expressed in a supervisory board of ten, one a lawyer and one a doctor, each of ten years experience, to cover the whole field, while the two with professional experience with three others, selected by the board, were given their own executive and created a Committee on Lunacy with executive powers. Under the new situation, the department may create four bureaus, but one of them must be a Bureau of Lunacy. The functions ascribed to the new department in Idaho are those of a health authority, and in New Mexico, the department has health and child welfare functions.

*"Central" versus "local."* As has been said, one of the considerations moving those who advocated the advisory as distinguished from the executive authority, was the fear of losing the benefits of local initiative and of personal intimate contacts, possible under local boards of management. The relationship worked out in Wisconsin in the care of the insane represents a coöperation between the central and the county authority.<sup>2</sup> Under this plan, county institutions are established and utilized for certain groups of state patients, the Board

<sup>1</sup>For the time the work of the Homestead Commission seems submerged. It is to be noted, however, that a Commission on State Administration and Expenditures, in 1922, proposes a reconsolidation of the departments of health, corrections, and mental diseases, and the institutional activities of the Department of Health with the Department of Public Welfare. *Massachusetts House Document No. 800, January, 1922, p. 22.*

<sup>2</sup>Hurd, *Institutional Care of the Insane*, Vol. I, chap. vi.

of Control, approving in advance the establishment and the plans proposed, approving the bills before making the per capita payments and retaining the power to remove a patient whose care is unsatisfactory. Under the New Jersey act of 1918,<sup>1</sup> amended in 1919, creating the department of institutions and agencies, the board appoints the boards of trustees of the institutions and of the non-institutional agencies, who in turn, appoint the chief executive of the institution or agency (except the principal keeper of the State Prison, who is a constitutional officer). The chief executive, with the approval of the board appointing him, selects the members of his staff. The New Jersey Scheme is interesting because, with the attempt to maintain and retain the interests of members of boards, there is also the attempt to secure for all institutions and all agencies the benefit of expert services, and the creation of Divisions of Medicine and Psychiatry, of Labor and Agriculture, of Statistics, of Parole, and of Dietetics, is also authorized.

Brief reference may also be made to two other problems. As was said in the opening paragraph, the issue between wards and services as a basis for allocating functions is often not clear-cut. Sometimes, however, the problem becomes an acute one. In the matter of the deaf and of the blind, there is frequently a sharp division of opinion as to the authority with which they should be associated, and there are found, therefore, not only great varieties of practice as between different states but frequent changes of practice within the same state. In some states, these groups are under special authorities, sometimes they are under public welfare, sometimes under education, sometimes under both education and public welfare.<sup>2</sup> In Massachusetts, Mothers' Aid administration is under public welfare; in Illinois, it is judicial; in Pennsylvania, the State Director reports to the State Education authority. Moreover, in Illinois, judicial administration is purely local; in Pennsylvania, the State Agent stimulates the organization of local commissions; in Massachusetts, the Overseers of the Poor (local) administer, subject to the advice and counsel of the state de-

<sup>1</sup> Laws of New Jersey, 1918, chap. 147, sects. 112, 115; 1919, chap. 97.

<sup>2</sup> Best, *The Deaf, Their Position in Society and the Provision for Their Education in the United States* (1914); also, *The Blind, Their Condition and the Work Being Done for Them* (1919). The same discussion occurs in the case of schools for dependent children.

partment, and, if the department approves, the local work recovers one third of the cost from the state treasury for the locality.

The second problem to which brief reference might be made is that of coöperation among the various departments which have a common interest in the same services or in the same wards. Under the Illinois statute it is provided that the directors are to devise methods of coöperating and to secure the coördination of the work of the various departments. . . .<sup>1</sup> Since there are great experiments in departmental coöperation being worked out on a national scale under the so-called Smith-Lever act, the Smith-Hughes act, and the Sheppard-Towner act, in fields nearly related to that of "public welfare," it is unnecessary, perhaps, to do more than call attention to the need of developing a fine art of coöperation<sup>2</sup> among the agencies concerned with common undertakings.

*Conclusion.* To review briefly—after sixty years of effort, there are still commonwealths that have taken no step in the direction of organizing their service in this general field on a state-wide basis: there are eight that recognize the field as one of a greater or smaller number of fields to which are devoted special departmental organizations. Those eight and the other thirty-seven that have taken some action in this direction show diversity at well-nigh every point, and manifest variations accounted for by differences not only in need, situation, character of work to be done, but by variations due also to inertia, to lack of agreement on certain fundamental principles of effective governmental action, and in part, undoubtedly, to lack of such authoritative leadership as might come from a national service soundly developed and based on the fundamental demand that the victims of social and economic maladjustment be adequately cared for, the symptoms traced to their source, and the wisdom acquired from sound treatment and thorough analysis applied to constructive and preventive attacks upon the social and economic ills thus revealed.

<sup>1</sup> Illinois Revised Statutes, chap. 24 $\frac{1}{2}$ , sect. 26.

<sup>2</sup> One feels hesitant to use the word "coöperation," which, like "charities" and "homes" and various other beautiful and significant terms, has been first used, then abused, and then discarded!

## PART V. PROBLEM OF CRIMINALITY

### CHAPTER XXXI

#### DEFINITION AND CAUSES OF CRIME

##### 108. WHAT IS CRIME?<sup>1</sup>

Crime needs to be sharply discriminated from vice on the one hand, and from sin on the other. Vices are injuries done to oneself, through the violation of natural law, which affect others only indirectly, if at all. Intemperance is a vice; so is sloth, so is improvidence. Sins are offences against God, whose commandments extend beyond outward acts and reach down into the region of unuttered thoughts and unfulfilled desires, of which human legislation can rightfully take no cognizance. Crimes are wrongful actions, violations of the rights of other men, injuries done to individuals or to society, against which there is a legal prohibition enforced by some appropriate legal penalty.

The distinction just made is real, but these categories of wrongdoing are not necessarily mutually exclusive. There are vices and crimes which are also sins. And any vice or sin becomes a crime when it is declared to be punishable by human law.

Again, actions or omissions contrary to equity, for which the legal remedies are merely civil, and consist in restitution, with or without damages, must be discriminated from actions or omissions in which the disregard shown for the rights of others is so palpably immoral and anti-social as to call for the infliction of some degree of criminal punishment, either by deprivation of life, liberty, or property. Only the latter fall within the strict definition of crimes in the technical phraseology of the law; the former are torts.

<sup>1</sup>From *Punishment and Reformation* (pp. 11-13), by Frederick Howard Wines, LL.D., formerly Special Agent of the Eleventh United States Census on Crime, Pauperism, and Benevolence, and Assistant Director of the Twelfth United States Census. Copyright, 1895 and 1910, by Thomas Y. Crowell Co., New York.



Sir James Stephen says :

The criminal law is that part of the law which relates to the definition and punishment of acts or omissions which are punished as being

1. Attacks upon public order, internal or external ; or
2. Abuses and obstructions of public authority ; or
3. Acts injurious to the public in general ; or
4. Attacks upon the persons of individuals, or upon rights annexed to their persons ; or
5. Attacks upon the property of individuals, or upon rights connected with and similar to rights of property.

To this succinct description of the criminal law he adds :

The conditions of criminality consist partly of positive conditions, some of which enter more or less into the definition of nearly all offences ; the most important being malice, fraud, negligence, knowledge, intention, will. There are also negative conditions or exceptions tacitly assumed in all definitions of crimes, which may be described collectively as matter of excuse.<sup>1</sup>

Crimes are distinguished as felonies or misdemeanors. By the common law of England, felonies were punishable with death. In the penal codes of the United States, the distinction between a felony and a misdemeanor is mainly statutory, and has lost its original significance. The graver offences are felonies. Felonies are punishable by death or imprisonment in a state prison or penitentiary for a term of years ; an offence thus punishable is a felony. Misdemeanors are punishable in a minor prison for a term of months or days ; an offence thus punishable is a misdemeanor.

<sup>1</sup> . . . it may, I think, be said in general that in order that an act may by the law of England be criminal, the following conditions must be fulfilled:

1. The act must be done by a person of competent age.
2. The act must be voluntary, and the person who does it must also be free from certain forms of compulsion.
3. The act must be intentional.
4. Knowledge in various degrees according to the nature of different offences must accompany it.
5. In many cases either malice, fraud, or negligence enters into the definition of offences.
6. Each of these general conditions (except the condition as to age) may be affected by the insanity of the offender.

Crimes by omission are exceptional and the points in which they differ from crimes by act will be noticed incidentally.—Stephen, *A History of the Criminal Law of England*, Vol. II, p. 97. Macmillan & Co., Limited, London, 1883.

### 109. ANTHROPOLOGICAL THEORY OF CRIME: ATAVISM AND EPILEPSY<sup>1</sup>

The fundamental proposition undoubtedly is that we ought to study not so much the abstract crime as the criminal. The born criminal shows in a proportion reaching 33 per cent numerous specific characteristics that are almost always atavistic. Many of the characteristics presented by savage races are very often found among born criminals.

Such, for example, are : the slight development of the pilar system ; low cranial capacity ; retreating forehead ; highly developed frontal sinuses ; great frequency of Wormian bones ; early closing of the cranial sutures ; the simplicity of the sutures ; the thickness of the bones of the skull ; enormous development of the maxillaries and the zygomata ; prognathism ; obliquity of the orbits ; greater pigmentation of the skin ; tufted and crispy hair ; and large ears. To these we may add the lemurine appendix ; anomalies of the ear ; dental diastemata ; great agility ; relative insensibility to pain ; dullness of the sense of touch ; great visual acuteness ; ability to recover quickly from wounds ; blunted affections ; precocity as to sensual pleasures ;<sup>2</sup> greater resemblance between the sexes ; greater incorrigibility of the woman (Spencer) ; laziness ; absence of remorse ; impulsiveness ; physiopsychic excitability ; and especially improvidence, which sometimes appears as courage and again as recklessness changing to cowardice. Besides these there is great vanity ; a passion for gambling and alcoholic drinks ; violent but fleeting passions ; superstition ; extraordinary sensitiveness with regard to one's own personality ; and a special conception of God and morality. Unexpected analogies are met even in small details, as, for example, the improvised rules of criminal gangs ; the entirely personal influence of the chiefs ;<sup>3</sup> the custom of tattooing ; the not uncommon cruelty of their games ; the excessive use of gestures ; the onomatopoetic language with personification of inanimate things ; and a special literature recalling that of heroic times, when crimes were celebrated and the thought tended to clothe itself in rhythmic form.

This atavism explains the diffusion of certain crimes, such as infanticide, whose extension to whole companies we could not explain if we did not recall the Romans, the Greeks, the Chinese, and the

<sup>1</sup> By Cesare Lombroso, M. D., formerly Professor of Psychiatry and Criminal Anthropology in the University of Turin. Adapted from *Crime: Its Causes and Remedies*, pp. 365-366, 369-373. Copyright, 1911, by Little, Brown & Company, Boston.

<sup>2</sup> *Homme Criminel*, Vol. I, pp. 136-579.

<sup>3</sup> Tacitus, *Germania*, chap. vii.

Tahitians, who not only did not regard them as crimes, but sometimes even practiced them as a national custom. Garofalo has admirably summed up the psychical characteristics of the born criminal as being the absence of the feelings of shame, honor, and pity, which are those that are lacking in the savage also.<sup>1</sup> We may add to these the lack of industry and self-control.

The same phenomena which we observe in the case of born criminals appear again in the rare cases of moral insanity,<sup>2</sup> but may be studied minutely, and on a large scale, in epileptics, criminal or not.<sup>3</sup> Not one of the atavistic phenomena shown by criminals is lacking in epilepsy; though epileptics show also certain purely morbid phenomena, such as cephalæa, atheroma, delirium, and hallucination. In born criminals also we find, besides the atavistic characteristics, certain others that appear to be entirely pathological, or which at first sight seem more nearly allied to disease than to atavism.

Such are, for example, in the anatomical field, excessive asymmetry, cranial capacity and face too large or too small, sclerosis, traces of meningitis, hydrocephalous forehead, oxycephaly, acrocephaly, cranial depressions, numerous osteophytes, early closing of the cranial sutures, thoracic asymmetry, late grayness of hair, late baldness, and abnormal and early wrinkles; in the biological field, alterations of the reflexes and pupillary inequalities. To these we may add peripheral scotomata of the visual field, which one never finds in savages, with whom, on the contrary, the field of vision is remarkably wide and regular, as we see in the case of the Dinkas. There is also to be added the alteration of hearing, taste, and smell, the predilection for animals, precocity in sexual pleasures, amnesia, vertigo, and maniac and paranoiac complications. These abnormalities, which are found in greater proportion among idiots, cretins, and degenerates in general, are to be explained by the fact that in these cases alcoholic intoxication is added to the effect of atavism, and still more to that of epilepsy.

However, the participation of epilepsy in producing the effect does not exclude atavism, since they equally involve characteristics at once atavistic and pathological, like macrocephaly, cranial sclerosis, Wormian bones, rarity of beard; and in the biological field, left-handedness, analgesia, obtuseness of all senses except that of sight,

<sup>1</sup> *Criminologie* (2d ed.), 1895.

<sup>2</sup> *Homme Criminel*, Vol. II, pp. 2-13.

<sup>3</sup> *Homme Criminel*, Vol. II, pp. 50-201.

impulsiveness, pederasty, obscenity, sluggishness, superstition, frequent cannibalism, choleric and impetuous disposition, tendency to reproduce the cries and actions of animals; and especially the histological anomalies of the cortex, which we have noted among criminals, and which reproduce the conditions of the lower animals; and finally anomalies of the teeth. These latter might appear to have no connection with the brain, but are, on the contrary, intimately connected with it, since the teeth proceed from the same embryonic membrane as the brain does.<sup>1</sup>

We may recall here that Gowers, having often noted in epileptics acts peculiar to animals, such as biting, barking, and mewing, concludes from this "that these are manifestations of that instinctive animalism which we possess in the latent state."<sup>2</sup>

If fully developed epileptic fits are often lacking in the case of the born criminal, this is because they remain latent, and only show themselves later under the influence of the causes assigned (anger, alcoholism), which bring them to the surface. With both criminals and epileptics there is to be noted an insufficient development of the higher centers. This manifests itself in a deterioration in the moral and emotional sensibilities, in sluggishness, physiopsychic hyperexcitability, and especially in a lack of balance in the mental faculties, which, even when distinguished by genius and altruism, nevertheless always show gaps, contrasts, and intermittent action.

The epileptic background upon which the clinical and anatomical picture of the moral lunatic and the born criminal is drawn (a picture that would otherwise be lost in vague semi-juridical, semi-psychiatric hypotheses) explains the instantaneousness, periodicity, and paradoxical character of their symptoms, which are doubtless their most marked characteristics. Note, for example, in this class, the coexistence and interchange of kindness and ferocity, of cowardice and the maddest recklessness, and of genius and complete stupidity.

<sup>1</sup> *Homme Criminel*, Vol. I, p. 232, n.

<sup>2</sup> *Epilepsy*, London, 1880.



### 110. STUDY OF THE ENGLISH CONVICT: A CRITICISM OF LOMBROSO<sup>1</sup>

We were confronted with the notion of a distinct anthropological criminal type: with the idea of the criminal being such in consequence of an hereditary element in his psychic organisation, and of certain physical and mental peculiarities, which stigmatised him as predestined to evil, and which differentiated him from the morally well-conditioned person. In accordance with this notion, every individual criminal is an anomaly among mankind, by inheritance; and can be detected by his physical malformations, and mental eccentricities: the inevitable deduction being that any attempt at his reform must prove vain.

The preliminary conclusion reached by our inquiry is that this anthropological monster has no existence in fact. The physical and mental constitution of both criminal and law-abiding persons, of the same age, stature, class, and intelligence, are identical. There is no such thing as an anthropological criminal type. But, despite this negation, and upon the evidence of our statistics, it appears to be an equally indisputable fact that there is a physical, mental, and moral type of normal person who tends to be convicted of crime: that is to say, our evidence conclusively shows that, on the average, the criminal of English prisons is markedly differentiated by defective physique—as measured by stature and body weight; by defective mental capacity—as measured by general intelligence; and by an increased possession of wilful anti-social proclivities<sup>2</sup>—as measured, apart from intelligence, by length of sentence to imprisonment.

<sup>1</sup>From *The English Convict: A Statistical Study*, by Charles Goring, M.D. His Majesty's Stationery Office, London, 1913. Reprinted by permission of the Controller of His Majesty's Stationery Office.

This investigation of three thousand English convicts has been pursued by the biometrical method. It is treated in the following sections:

Part I: An inquiry into the alleged existence of a "physical criminal type."

Part II: Chapter I, The physique of criminals; Chapter II, Age as an etiological factor in crime; Chapter III, The criminal's vital statistics: health, disease, mortality, enumeration; Chapter IV, The mental differentiation of the criminal; Chapter V, The influence of the "force of circumstances" on the genesis of crime; Chapter VI, The fertility of criminals; Chapter VII, The influence of "heredity" on the genesis of crime.

<sup>2</sup>We find that it is the most intelligent recidivists who are guilty of the most serious acquisitive offences (Goring, *The English Convict*, p. 288).

Reviewing the general trend of our results, it would seem that the appearances, stated by anthropologists of all countries to be peculiar to criminals, are thus described because of a too separate inspection, and narrow view of the facts, by these observers. They cannot see the wood for the trees. Obsessed by preconceived beliefs, small differences of intimate structure have been uncritically accepted by them, and exaggerated to fit fantastic theories. The truths that have been overlooked are that these deviations, described as significant of criminality, are the inevitable concomitants of inferior stature and defective intelligence: both of which are the differentia of the types of persons who are selected for imprisonment. The thief, who is caught thieving, has a smaller head and a narrower forehead than the man who arrests him: but this is the case, not because he is more criminal, but because, of the two, he is the more markedly inferior in stature. The incendiary is more emotionally unstable, more lacking in control, more refractory in conduct, and more dirty in habits, etc. than the thief; and the thief is more distinguished by the above peculiarities than the forger; and all criminals display these qualities to a more marked extent than does the law-abiding public: not because any one of these classes is more criminal than another, but because of their inter-differentiation in general intelligence. On statistical evidence, one assertion can be dogmatically made: it is, that the criminal is differentiated by inferior stature, by defective intelligence, and, to some extent, by his anti-social proclivities; but that, apart from these broad differences, there are no physical, mental, or moral characteristics peculiar to the inmates of English prisons. We need not recapitulate the social, economic, and legal selective processes which, without drawing upon theories of degeneracy or atavism, have seemed to us sufficient simple explanation of the criminal's physical and mental distinctions. The following figure, however, may assist the imagination in realising the nature and proportions of this differentiation. We may take it that one in thirteen persons of the general population are convicted at some time of life for indictable offences. If the total adult population were made to file by in groups of thirteen, and, out of each group, one person was selected, who happened to be the smallest there in stature, or the most defective in intelligence, or who possessed volitional anti-social proclivities to a more marked degree than his fellows in the group—the band of individuals resulting from

this selection would, in physical, mental, and moral constitution, approximate more closely to our criminal population than the residue.

The second conclusion resulting from our inquiry defines the relative importance of constitutional and environmental factors in the etiology of crime. The criminal anthropologists assert that the chief source of crime lies in the personal constitution. His physical and mental stigmata, they argue, while showing the anomalous biological origin of the law-breaker, prove also the existence in him of a peculiar constitutional psychic quality : by reason of which he is destined from birth to do evil, and will become criminal, however favourable or unfavourable his circumstances may be. On the other hand, the criminal sociologists say that the source of crime must be sought, not in the constitution of the malefactor, but in his adverse social and economic environment. He is not born, but is made, criminal, it is contended : his physical, mental, and moral characteristics, and the ultimate fate of imprisonment these entail, are products of unfavourable circumstances ; in the absence of which, even inborn criminal tendencies will fail to develop.

We have traced and measured the relations of constitutional and environmental conditions : and while, with many of the former, high degrees of association have been revealed, with practically none of the latter do we discover any definite degree of relationship. Thus, as already stated, we find close bonds of association with defective physique and intelligence ; and, to a less intimate extent, with moral defectiveness, or wilful anti-social proclivities—as demonstrated by the fact that it is the most intelligent recidivists who are guilty of the most serious acquisitive offences. We find, also, that crimes of violence are associated with the finer physique, health, and muscular development, with the more marked degrees of ungovernable temper, obstinacy of purpose, and inebriety, and with the greater amount of insane and suicidal proclivity, of persons convicted of these offences ; . . . and that fraudulent offenders are relatively free from the constitutional determinants which appear to conduce to other forms of crime. Alcoholism, also, and all diseases associated with alcoholism ; venereal diseases, and conditions associated with venereal diseases ; epilepsy, and insanity—appear to be constitutional determinants of crime : although, upon the evidence of our data, it would seem that these conditions, in their relation to conviction, are mainly accidental

associations, depending upon the high degree of relationship between defective intelligence and crime. On the other hand, between a variety of environmental conditions examined, such as illiteracy, parental neglect, lack of employment, the stress of poverty, etc., etc., including the states of a healthy, delicate, or morbid constitution per se, and even the situation induced by the approach of death<sup>1</sup>—between these conditions and the committing of crime, we find no evidence of any significant relationship. Our second conclusion, then, is this: that, relatively to its origin in the constitution of the malefactor, and especially in his mentally defective constitution, crime is only to a trifling extent (if to any) the product of social inequalities, of adverse environment, or of other manifestations of what may be comprehensively termed the force of circumstances.

Our third conclusion refers to the influence of imprisonment upon the physical and mental well-being of prisoners. We find that imprisonment, on the whole, has no apparent effect upon physique, as measured by body weight, or upon mentality, as measured by intelligence; and that mortality from accidental negligence is pronouncedly diminished, and the prevalence of infectious fevers due to defective sanitation—taking enteric as a type—is lessened, by prison environment; on the other hand, mortality from suicide, and from conditions involving major surgical interference amongst prisoners, greatly exceeds the general population standard; while, with regard to the prevalence of, and mortality from, tuberculosis, in English prisons, criminals may be regarded as a random sample of the general population—one-fourth to one-fifth of all deaths in the general population, as well as amongst prisoners, being due to some form of tubercular disease.<sup>2</sup> We find, moreover, that long terms of imprisonment militate against the regularity of a convict's employment when he is free from

<sup>1</sup> At all ages of life up to fifty-five the death rates of prisoners are practically identical with the general population rates.

<sup>2</sup> A fact which demonstrates that the current allegations (1) of criminality and tubercular diseases being kindred manifestations of the same form of human decadence, and (2) that prison conditions foster tubercular disease, are both unsupported by statistical facts.

With regard to sickness generally, the fraction of a year spent, on the average, in hospital, by the inmates of English prisons, is a few hours less than, or practically identical with, the average period during which the members of one of our largest friendly societies receive pay, and are absent from work, on account of sickness.



prison, but tend to increase the standard of his scholastic education; and that frequency of incarceration leads to a diminution of the fertility of the convict, owing to the circumstance that, after a certain period of continually interrupted married life, habitual criminals are deserted by their wives, or by the women with whom they have lived.

Our fourth conclusion disposes of the current allegation that "criminals share in the relative sterility of all degenerate stocks." Upon the evidence of our statistics, we find the criminal to be unquestionably a product of the most prolific stocks in the general community; and that his own apparent diminution of fertility is not due to physiological sterility, but to the definite, psychological, human reaction we have just affirmed.

The fact that conviction for crime is associated, as our figures have shown, mainly with constitutional, and scarcely to any appreciable extent with circumstantial, conditions, would make the hypothesis a plausible one that the force of heredity plays some part in determining the fate of imprisonment. We have seen that the principal constitutional determinant of crime is mental defectiveness—which, admittedly, is a heritable condition; and scarcely less than 8 per cent of the population of this country are convicted for indictable offences—which could only be possible on the assumption that crime is limited to particular stocks of the community:<sup>1</sup> from these facts the conclusion seems inevitable that the genesis of crime, and the production of criminals, must be influenced by heredity. Our family histories of convicts bear testimony to this truth; and the fifth and final conclusion emerging from our biometric inquiry is as follows: that the criminal diathesis, revealed by the tendency to be convicted and imprisoned for crime, is influenced by the force of heredity in much the same way, and to much the same extent, as are physical and mental qualities and conditions in man.

The scientist, and, in so far as he would be guided by the word of science, the legislator, have to reckon with three natural forces, upon which the fates of men, and the fortunes of society, depend: the forces of heredity, circumstance, and chance. In the case of any one, particular, conviction for crime, it could be imagined that the victim

<sup>1</sup> If persons convicted, at some time of life, for indictable offences, were distributed at random, every other family in the land would produce a criminal member.

was selected entirely at random—by ballot, for instance, as the jurymen is chosen: this would be a case illustrating the force of chance; or he might have been selected because, by the spur of hunger, he committed a theft which, in the absence of this stimulus, he would not have committed: such would be a case illustrating the force of circumstance; or, again, dissociated from any special stimulus, apart from temptation to which all men living in the world are equally exposed, it could be imagined that the committing of, and subsequent conviction for, the crime referred to, were inseparably related with an inherent stupidity, lack of control, or other constitutional determinant of anti-social conduct: in this case, since offspring tend to resemble their parents in constitutional qualities, the crime could be described as mainly influenced by the force of heredity. The practical problem facing the legislator is, therefore, this one: on the average, and taking criminals in the mass, which of the forces we have enumerated is chiefly responsible for the social phenomenon of crime? We think that our figures, showing the comparatively insignificant relation of family and other environmental conditions with crime, and the high and enormously augmented association of feeble-mindedness with conviction for crime, and its well-marked relation with alcoholism, epilepsy, sexual profligacy, ungovernable temper, obstinacy of purpose, and wilful anti-social activity—every one of these, as well as feeble-mindedness, being heritable qualities—we think that these figures, coupled with those showing the marked degree of ancestral resemblance in regard to the fate of imprisonment, go far to answering this question.

Let us remember—it is nearly always forgotten—that heredity is not a spectre to be disregarded, an enemy to be dreaded: it is a universal and natural force, to be studied and measured, so that, when understood, it can be consciously directed to the welfare of human beings. The force itself is neither modifiable nor extinguishable. The force of gravity does not cease to operate when the balloon flies upward; nor is the mode of action of the wind annihilated when a ship sails in its teeth. And similarly, the force of heredity is not extinguished when, isolated on a Pacific island, the tubercular escape the penalties of their inheritance; nor, when, by appropriate physical culture, the stature of man may be increased by inches. Assuming that by the segregation of all criminals, crime might be reduced to

nothing: yet parents with the least social proclivities would still go on begetting offspring who, on the average, would commit the greatest number of anti-social offences; just as, despite of physical culture exercised by everybody, the tallest offspring would, in the long run, be begotten by the tallest parents.

Yet no rational definition of the hereditary nature of crime supposes the criminal's predestination to inevitable sin. Our own statement is that degrees of the criminal tendency possessed, to some degree, by all people, are inherited in the same way as other conditions and tendencies in men are inherited: which is to say that, in regard to constitutional qualities—feeble-mindedness, inebriety, ungovernable temper, etc., etc.,—tending to affect conviction for crime, there is a degree of parental resemblance of much the same intensity as there is between parents and offspring in regard to their tendency to become diseased, or to develop, under the influence of a common environment, to a certain grade of stature. But this fact of resemblance does not argue absence of the environment in the development of human beings. It is as absurd to say that, because criminal tendency is heritable, a man's conviction for crime cannot be influenced by education, as it would be to assert that, because mathematical ability is heritable, accomplishment in mathematics is independent of instruction; or that, because stature is heritable, growth is independent of nutriment and exercise. Our correlations tell us that, despite of education, heritable constitutional conditions prevail in the making of criminals; but they contain no pronouncement upon the extent to which the general standard of morality may have been raised by education. We know that to make a law-abiding citizen, two things are needed—capacity and training. Within dwells the potentiality for growth; but without stands the natural right of each child born into the world—the right to possess every opportunity of growing to his full height.

The crusade against crime may be conducted in three directions. The effort may be made to modify inherited tendency by appropriate educational measures; or else to modify opportunity for crime by segregation and supervision of the unit; or else—and this is attacking the evil at its very root—to regulate the reproduction of those degrees of constitutional qualities—feeble-mindedness, inebriety, epilepsy, deficient social instinct, etc.—which conduce to the committing of crime.

### 111. PHYSICAL AND SOCIAL FACTORS IN THE PRODUCTION OF CRIME<sup>1</sup>

It has long been a commonplace of ethics, that the commission of crime depends more or less upon the physical and social environment of the criminal. There is no doubt that social environment has a great deal to do with the continuance of the criminal class, as one can hardly expect a child brought up among criminals and prostitutes to be right-minded, lawful, or moral. Many sociologists have sought still further to connect crime with the physiological characteristics of the criminal, and hence look upon it simply as an infirmity or a disease. Other sociologists have gone further yet, and tried to connect the manifestations of crime with the physical environment, such as climate, and season, or with social characteristics, such as race, religion, density of population, domicile, etc., and thus to make it a manifestation of social disease or infirmity. This last attempt has not as yet attained any very precise results. Some interesting deductions have been indicated as follows:

*Influence of climate and geographical position.* It is an old observation that crimes against the person are more numerous in southern climates than crimes against property, and vice versâ. Guerry observed this in France as far back as 1826–1830. Dividing France into three zones, he found the following proportions for each class of crimes:

	CRIMES AGAINST THE PERSON	CRIMES AGAINST PROPERTY
Northern zone . . . . .	2.7	4.9
Middle zone . . . . .	2.8	2.34
Southern zone . . . . .	4.96	2.32

It will be observed that these proportions are almost directly inverse. These old observations of Guerry have been confirmed in a general way by the later statistics. In 1882, it was said that crimes against the person were especially prominent in Corsica and the Eastern Pyrenees; in the low and high Alps, in Savoy, in L'Aveyon and La Lozère, crimes against property and against the person were equal in number; in the other departments crimes against property were in excess. Corsica and Paris furnish 20 per cent of all the

<sup>1</sup>From *Statistics and Sociology* (pp. 269–279), by Richmond Mayo-Smith, Ph. D., formerly Professor of Political Economy in Columbia University. Copyright, 1895, by The Macmillan Company. Reprinted by permission.



attempts on person or life, but while in Paris there was one such attempt for one hundred thousand persons, in Corsica there was one for every thirteen inhabitants.<sup>1</sup>

In Italy there is a general geographical distribution corresponding to the above. Homicide and injuries to the person are most frequent in the province of Rome, in Sicily, in Calabria, and certain other provinces of the south. In these same provinces crimes against morality are more frequent than in the centre and the north. In simple larcenies the heaviest number is found about Rome and in Sardinia, but otherwise the northern provinces are more heavily represented than the southern.<sup>2</sup>

In other countries we do not get distinct indications of the influence of climate on the commission of crime. In Germany crime seems to be more frequent in the east than in the west. In the eastern provinces of Prussia crimes against the person, as well as the grosser crimes against property, are very frequent, while the finer crimes against property, such as embezzlement, are more frequent in the west and south. The reason for this distribution is not explained. It is apparent, however, that effect of climate and geographical position might be easily obscured by the influence of economic and social conditions.<sup>3</sup>

*Influence of the seasons.* It is pretty well determined that crimes against the person are more numerous in summer than in winter; that crimes against property are more numerous in winter than in summer. Various reasons for this have been given. That such crimes against property as larceny should be more frequent in winter than in summer may, perhaps, be explained by the greater pressure of economic wants in the cold season. But it is not easy to explain why crimes against the person, and especially those against morality, such as rape, should be more frequent in summer than in winter. Some authors ascribe it to the influence of the season, others to the greater opportunity, owing to the out-door life of the agricultural population.<sup>4</sup>

*City and country.* There is generally more crime in the city than in the country, and the reason, of course, is that the city is often the place of refuge for country criminals. In France, while in the cities

<sup>1</sup> *Zeitschrift des Preuss. stat. Bureau's*, 1882, S. C. XLVI.

<sup>2</sup> Bodio, *Communication sur l'organisation de la statistique pénale en Italie*.

<sup>3</sup> Von Scheel, "Zur Einführung in die Kriminalstatistik," *Allg. stat. Archiv*, Vol. I, p. 205.

<sup>4</sup> *Allg. stat. Archiv*, Vol. II, p. 49.

there was one accused (of crimes or misdemeanours) to 6007 inhabitants, in the country districts there was one accused to 12,787 inhabitants. Of the persons tried before juries in 1890, 13 per cent had no permanent residence, 43 per cent lived in the country, and 44 per cent in towns of 2000 inhabitants and over. The rural population is twice as numerous as the urban. In England, on the other hand, we have some statistics which go to show that, owing to police control, the number of criminals compared with the total population is less in the large cities than in the counties. The police keep a record of known thieves and depredators, of receivers of stolen goods, and of suspected persons. The distribution of these persons in 1890-1891 was: in counties, 1.20 per 1000 of the population; in boroughs, 1.20; and in London, 0.41 per 1000 of the population.<sup>1</sup>

When we consider particular crimes, we find great variations between city and country, which, however, cannot be reduced to any law applicable to all countries. London, for instance, shows the largest number of larcenies; in murder, Derby shows the highest percentage, while London holds only a medium place; in rape, Chester, Monmouth, Stafford, and Southampton lead, while London stands only twentieth. Paris is the heaviest of all the departments in France in thefts and crimes against property; but it is very light in arson and rape compared with some of the country departments; and in regard to murder Paris stands fifteenth below Corsica. Crimes against morality are common in France in the industrial departments, where drunkenness is also most common, while in the agricultural departments they are less frequent. Infanticide, on the other hand, is more common in the country than in the cities, owing probably to the absence of foundling asylums.

*General social influences on crime.* The influence of race or nationality is difficult to discern in the statistics of crime, because of the difficulties of international comparison. In the United States we can compare the number of prisoners and convicts of foreign birth with those of native birth. Care must be taken to consider the greater proportion of adults among the foreign-born. Even then, the amount of criminality may be due to the strange environment in which these foreigners find themselves, rather than to any influence of nationality. Taking into account the birth-place of the parents of prisoners, the

<sup>1</sup> *Judicial Statistics*, England and Wales, 1891, p. x.

census attributes 43 per cent of the crimes committed by white persons to the native white element, and 57 per cent to the foreign element.

*Influence of religious confession.* There is nothing yet very decisive in this direction because the influence of religious confession is obscured by other conditions. In Germany, for instance, there is generally less criminality among Protestants than among Catholics, if you take the whole empire. This is explained by the fact that in North and Middle Germany, where the Protestant religion is prevalent, the inhabitants have a quieter temperament and are also better off economically. In those sections the Catholic population also has a smaller criminality than in other parts. In regard to the difference between Christians and Jews, the German statistics seem to show that in general the Jews have less criminality than the Christians; but in certain crimes, such as perjury, forgery, fraudulent bankruptcy, and slander, the Jews surpass the Christians. In these cases it is possible that the difference in religion and the corresponding difference in race may be the cause, but we must remember that occupation exerts à great influence, and that the Jews, being devoted to commerce and finance, have special opportunity and temptation to commit the above crimes. Comparisons between Christian and Jew would, therefore, not be fair unless we took the relative number in each occupation, which would require very minute investigation and lead to uncertain results.<sup>1</sup>

*Influence of social position.* Crime is more frequent among the lower classes than among the upper. And the criminals of each year are recruited largely from the criminal classes. Of the persons in England, in 1890-1891, apprehended for indictable offences or proceeded against summarily, those of previous good character were 51 per cent of the whole number, those known as thieves or otherwise of bad character were 17.5 per cent, and those of character unknown 31.5 per cent.<sup>2</sup> It is commonly said in criminology that crime is hereditary and descends from generation to generation. It is often impossible, however, to trace out the birth of criminals, and even if we show that there is a larger amount of criminality among the poor and degraded, that is only what might be expected.

*Occupation and profession.* It is doubtless true that the kind of occupation exercises a considerable influence upon the commission of

<sup>1</sup> *Allg. stat. Archiv*, Vol. I, p. 201.

<sup>2</sup> *Judicial Statistics*, England and Wales, 1891.

crime and the kind of crime. In Germany they have a very elaborate classification of this sort, both for crime in general and for the different particular crimes. The chief categories are seen in the following table:<sup>1</sup>

NUMBER PER 100,000 PERSONS OF CRIMINAL AGE CONDEMNED FOR  
CRIMES AGAINST

IN	THE STATE	THE PERSON	PROPERTY	TOTAL
Agriculture . . . . .	78.4	302.5	335.2	717.3
Industry . . . . .	201.7	571.1	547.8	1322.4
Trade and commerce . . .	294.1	550.6	621.9	1480.0
Domestic service . . . . .	11.2	37.2	259.0	307.8
Other and no occupation . .	667.8	706.3	1080.7	2476.0

This general classification shows extraordinary differences between the different classes. The most favourable relations are found among the domestic servants, the next in agriculture, the next in industry, then trade and commerce, and finally, those with other occupation or no occupation. The numbers for these five classes stand in the relation of 1:2:4:5:8.

This grouping by general occupation is a very rough one, and economic and social condition probably have more influence than occupation upon criminality. If we take the particular crimes we find a little closer indication of the influence of occupation. Simple larceny is heavily represented in all the classes, especially in the fifth, persons of miscellaneous or no occupation, which includes day labourers, tramps, and persons without settled position. The proportion is 593.2 per 100,000 in this class, while in agriculture it is only 175.4. Dangerous injury to the person is very rare among domestic servants, but is heavily represented among persons engaged in industry. Embezzlement and fraud are, of course, heaviest in commerce and trade, while malicious injury to property is frequent in the industrial occupations.

In order to follow out the statistics closely, it would be necessary to consider the particular occupation, and also the age and sex classification. In the case of dangerous assaults, for instance, agricultural labourers and employees in industry, mining, and building trades are

<sup>1</sup> *Allg. stat. Archiv*, Vol. III, p. 368.



much more numerous represented in proportion to their number than farmers or landlords, or employers of labour; and this is especially true of the industrial compared with the agricultural labourers.<sup>1</sup> The reason for this disproportion is evident when one remembers that among the employees in these trades there is a great number of men, and especially of young men who are inclined to violence. The employers are older men; and among the agricultural labourers are included many women. It thus appears that often it is not the occupation so much as the kind of persons attracted into the occupation which determines the amount of crime.

*Illiteracy and crime.* Large numbers of the criminals are illiterate. In England, of those committed to prison in 1891-1892, 22.8 per cent could neither read nor write; 74.2 per cent could read, or read and write imperfectly; 2.9 per cent could read and write well. In Austria, 40 per cent of those condemned for serious crimes and 50.3 per cent of those condemned for misdemeanours were illiterate. In Hungary the proportion was 52.9 per cent; in France, 21 per cent.

*Influence of economic condition, scarcity of food, and war.* Hard times increase the number of crimes, especially of crimes against property. A general rule has been laid down that as the price of food increases, crimes against property increase, while crimes against the person decrease. The immediate influence of war seems to be restraining on crime. This is probably due to the removal of men of criminal age. In Prussia it has been shown that during war the number of all the more serious crimes decreases, while the effect upon the lighter misdemeanours, such as stealing wood in the forest, is insignificant. In Germany an advance in the price of rye-meal and potatoes is followed by an increased number of crimes against property, especially simple larceny, the succeeding year.<sup>2</sup>

*Individual biological influence.* Sex, age, and conjugal condition have a marked influence upon criminality. There are always more males among the criminals than females. In Germany (1885-1890) there were 21 female criminals for every 100 male. But the proportion differs for different crimes. For crimes against public order the proportion is only 9.1 per cent; for crimes against the person, 15.9 per cent; while for crimes against property it is 27.8 per cent. The

<sup>1</sup> *Allg. stat. Archiv*, Vol. I, p. 207.

<sup>2</sup> See Conrad, *Jahrbücher für Nationalökonomie und Statistik*, 1894, p. 719.

large proportion in larceny (37.8 per cent) is doubtless due to the economic condition of women left without means of support. The proportion of women convicted of concealment of stolen goods is always very large, in Germany being 62.7 per cent of the number of males.<sup>1</sup> In England it was found that the proportionate number of women criminals is much greater in the cities than in the country, and the same observation has been made elsewhere. In the United States the women prisoners were 6405 compared with 75,924 men, or 8.7 females to 100 males. The proportions differed widely for different crimes, the women being much less numerously represented in homicide, assaults, larceny, embezzlement, fraud, forgery, etc., and more numerously represented in disorderly conduct, receiving stolen goods, and offences against public morality.<sup>2</sup>

Age, of course, has powerful influence on criminality. Crime is most frequent at the age of twenty to thirty, and next to that at the age of thirty to forty. In Germany we have the following number of persons condemned per one hundred thousand persons of the same age:<sup>3</sup>

	FOR CRIMES			
	Against the Public Peace	Against the Person	Against Property	All Crimes
From 12 to under 18 years .	23.0	145.3	536.6	705.4
From 18 to under 21 years .	273.9	169.6	89.6	534.9
From 21 to under 40 years .	210.0	650.5	626.3	1493.0
From 40 to under 60 years .	121.2	372.7	351.6	850.7
Over 60 years . . . .	32.0	116.0	109.4	259.5

The criminal age is seen to be that between twenty-one and forty years. Among children from twelve to eighteen years of age crimes against property are especially numerous, because children are employed in petty thieving. During the period from eighteen to twenty-one crimes against the person are in excess of those against property because that is the age of passion and violence. At the same age period crimes against the public peace are also especially numerous.

*Conjugal condition and criminality.* Taking all ages and both sexes, there is greater criminality among the widowed and divorced than

<sup>1</sup> *Allg. stat. Archiv*, Vol. III, p. 367.

<sup>2</sup> *Compendium of the United States Census*, II, pp. 193-194.

<sup>3</sup> *Allg. stat. Archiv*, Vol. III, p. 367.

among the married and single. It is probable, however, that it is not widowhood or divorce that increases crime, but that among those classes of the population who are driven to crime by want, the dissolution of marriage by death or divorce is especially frequent, and hence there is a relatively large number of criminals among the widowed and the divorced. In general the majority of the criminals are unmarried, as for instance, in France, 59 per cent were unmarried. In Prussia, on the other hand, the number of married and unmarried men convicted of serious crimes was almost the same. There are frequent variations in these statistics.

### 112. IMMIGRATION AND CRIME<sup>1</sup>

*Immigrants and natives.* Regarding the criminality of immigrants and natives, all data analyzed agree upon the following points:

1. The class of offenses designated as "gainful" forms a larger proportion of native than of immigrant criminality.

2. The aggregate "offenses of personal violence" and the aggregate "offenses against public policy" form larger percentages of immigrant than of native crime.

3. The aggregate "offenses against chastity" compose very slightly different proportions of the total criminality of immigrants and of natives. The only striking difference is found in the records of the arrests made by the Chicago police during the period from 1905 to

<sup>1</sup>From *Immigration and Crime*, Reports of the United States Immigration Commission, Vol. XXXVI, Senate Document No. 750, 61st Cong., 3d Sess., pp. 13-14, 18-20. Government Printing Office, Washington, 1911.

"A small amount of entirely new data was collected by the Commission covering 2206 convictions in the New York City court of general sessions from October 1, 1908, to June 30, 1909. By special arrangement with this court the race of every offender convicted during that period was recorded. So far as is known that was the first time that any court in the United States had made a record of the race of persons convicted in it. Thus, although the number of cases in which such data were obtained is small, the newness of the material renders it of special interest. All other data upon which the statistical part of this report is based were obtained from existing records, although in every case the data were subjected to special reclassification and tabulation, and analyzed with the relation of immigration to crime in view. . . . The following were selected as affording the greatest amount of data for the purpose of the Commission: I. Court records; II. Records of Penal Institutions; III. Records of arrests by the police of various cities. . . . From these sources records of 1,179,677 criminal cases were obtained."—*Immigration and Crime*, p. 9

1908, inclusive, which show 5.2 per cent of the arrests of natives to have been for these crimes and 3.3 per cent of those of immigrants. The data from two of the other four sources show these crimes to form the same percentage of native and immigrant criminality, while in one of the remaining two sets of data the native percentage slightly exceeds the foreign percentage, and in the other the foreign percentage is slightly in excess of the native.

When analysis is made of some of the specific offenses within these four general classes of crime, a number of exceptions to these rules appear. In the main, however, various specific offenses bear the same relations to immigrant and native criminality as do the crime groups to which they belong.<sup>1</sup>

*The second generation.* One of the most important facts established by the investigation concerns the American-born children of immigrants—the "second generation." While the data upon which the study of this phase of the problem is based are too limited to permit of wide generalization, the results obtained from the analysis are of value. The records of convictions in the New York court of general sessions during the period from October 1, 1908, to June 30, 1909, and of all commitments to Massachusetts penal institutions, except those to the State farm, during the year ending September 30, 1909, form the basis of this analysis of the criminal tendencies of the second generation.

From these records it appears that a clear tendency exists on the part of the second generation to differ from the first or immigrant generation in the character of its criminality. It also appears that this difference is much more frequently in the direction of the criminality of the American-born of non-immigrant parentage than it is in the opposite direction. This means that the movement of second generation crime is away from the crimes peculiar to immigrants and toward those of the American of native parentage. Sometimes this movement has carried second generation criminality even beyond that of the native-born of native parentage.

*Summary by nationality.* The races or nationalities which stand out prominently in these records of crime as exhibiting clearly defined criminal characteristics are these :

<sup>1</sup>Detailed analysis of the criminality of immigrants and natives is made in *Immigration and Crime*, chaps. iv, v, and vi.



*American* (including all native-born persons, both white and colored). In three of the five sets of data the aggregate gainful offenses form a higher percentage of the crimes of Americans than those of any other group of offenders. The highest percentages of the specific crime of burglary in these three sets of data also belong to the American-born. The three sets of data thus agreeing are those from the New York City magistrates' courts, the county and supreme courts of New York State, and the Chicago police department. In the first and third of these the American percentage of robbery is also greater than that of any other race or nationality group of offenders.

*French.* In the data from the New York City magistrates' courts and the police department of Chicago natives of France have a higher percentage than any other persons of the aggregate offenses against chastity and of the specific "crimes of prostitution" belonging to that group of offenses.

*Greek.* The records of the city magistrates' courts of the Boroughs of Manhattan and the Bronx in New York, and of the Chicago police department, show the highest percentage of violations of city ordinances to be that of persons born in Greece. Comparison of the Greeks with other nationalities in the records of the city magistrates' courts of all five boroughs of Greater New York is not possible, as the courts of three of the boroughs show no separate Greek group in their records.

*Italian.* The Italians have the highest percentage of the aggregate offenses of personal violence shown by the data from the New York City magistrates' courts, the New York court of general sessions, the county and supreme courts of New York State, and the penal institutions of Massachusetts. The Chicago police records alone show a different condition; in them the Italian percentage is exceeded by those of the Lithuanians and Slavonians,<sup>1</sup> neither of which nationalities appears as a separate group in the data from the four other sources. Certain specific crimes of personal violence also belong distinctively to Italian criminality. Abduction and kidnapping in the figures from the New York City magistrates' courts and the county and supreme courts of New York State form a larger percentage of the crimes of Italians than of those of any other group of offenders.

<sup>1</sup>"Slavonians" is a term employed by the Chicago police department to designate persons born in Croatia or Slavonia.

In the Chicago figures the Italians rank second in percentage of these crimes, being very slightly exceeded by the Greeks. In the remaining two sets of data no comparison of nationalities is made with regard to these crimes, because of the small number of cases. Of blackmail and extortion the Italians also have the highest percentage in the four sets of data having a sufficient number of cases to make comparison possible. The Massachusetts figures have only one case, and therefore afford no field for such comparison. In all five sets of data the Italians have the highest percentage of homicide. Rape likewise forms a higher percentage of the crimes of Italians than of those of any other nationality in the statistics of the New York City magistrates' courts, the New York court of general sessions, and the penal institutions of Massachusetts. In the county and supreme court records of New York State the Italian percentage of rape is second in rank, being very slightly exceeded by the German, while in the Chicago figures the Greeks report a higher percentage.

Of the aggregate offenses against public policy, the Italian percentage exceeds all others in two sets of data—those from the New York court of general sessions and the county and supreme courts of New York State. Of violations of city ordinances shown in the records of the city magistrates' courts of Greater New York, the Italian percentage is greatest, while of the same offenses shown in the records of arrests by the Chicago police, the Italian percentage ranks third.

*Russian.* Of the aggregate gainful offenses the percentage of persons born in Russia ranks second in those three sets of data in which the American percentage of these crimes is first in rank—those from the New York City magistrates' courts, the county and supreme courts of New York State, and the Chicago police department. The Russian percentage of the specific crimes of larceny and receiving stolen property is also striking. In the figures of the New York City magistrates' courts it is third in rank, being exceeded by the American and English; in the figures of the county and supreme courts of New York State it is greater than all other percentages. Further than this, the Russian percentage of violations of city ordinances is second in rank in the data from the New York City magistrates' courts (Greater New York) and the Chicago police department.

113. MENTAL DISEASE AND DELINQUENCY<sup>1</sup>

New York State in 1917 received into its penal and correctional institutions 133,047 prisoners, 60 per cent of whom had served previous commitments. Massachusetts in a given year received into its institutions 25,820 prisoners, 57.4 per cent of whom were repeaters; the total number of previous commitments being 92,443, averaging six sentences for each recidivist.

Dr. Bernard Glueck, in the first annual report of the Psychiatric Clinic in collaboration with Sing Sing Prison, states that "of 608 adult prisoners studied by psychiatric methods out of an uninterrupted series of 683 cases admitted to Sing Sing Prison within a period of nine months, 66.8 per cent were not merely prisoners but individuals who had shown throughout life a tendency to behave in a manner at variance with the behavior of the average normal person, and this deviation from normal behavior had repeatedly manifested itself in a criminal act." Further, "Of the same series of 608 cases, 59 per cent were classifiable in terms of deviation from average normal mental health. Of the same series of cases 28.1 per cent possessed a degree of intelligence equivalent to that of the average American child of twelve years or under."

Such findings confirm similar reports coming from prisons, reformatories, and courts throughout the country as indicated in the tables which follow:

TABLE I. INMATES OF PRISONS EXHIBITING NERVOUS OR MENTAL ABNORMALITY

<i>Institution</i>	<i>Authority</i>	<i>Number of cases studied</i>	<i>Percentage found to have nervous or mental abnormalities</i>
Auburn Prison (N.Y.)	Dr. Frank L. Heacox . .	459	61.7
Sing Sing Prison (N.Y.)	Dr. Bernard Glueck . .	608	59.0
Indiana State Prison .	Dr. Paul E. Bowers . .	100	45.0
Mass. State Prison . .	Dr. A. Warren Stearns and C. C. Rossy . . . .	300	34.9

From this table it is seen that at least 50 per cent of the inmates of state prisons are suffering from some form of nervous or mental disease or defect.

<sup>1</sup> Adapted from *A Report of a Special Committee of the New York State Commission of Prisons*. Prepared with the assistance of V. V. Anderson, M.D., Director of the Division of Prevention of Delinquency, The National Committee for Mental Hygiene. *Mental Hygiene*, Vol. III, No. 2 (1919), pp. 177-198.

The foregoing figures show not only the number of persons with intellectual defect but include cases of insanity, epilepsy, psychopathic personality, drug deterioration, alcoholic deterioration, and other abnormal nervous and mental conditions, all of which seriously handicap the individual in his ability to adjust himself to the conditions of normal living. All of these mental conditions are most important in considering any real constructive attempt at rehabilitating the criminal.

One of the most important, if not the most important group of which society needs to take cognizance, is the feeble-minded. The feeble-minded furnish the substantial nucleus of that most expensive body of individuals who clog the machinery of justice, who spend their lives in and out of penal institutions and furnish data for the astonishing facts of recidivism—facts which are serving to awaken our social conscience to the need of more adequate treatment under the law for repeated offenders.

TABLE II. INMATES OF STATE PRISONS FOUND TO BE FEEBLEMINDED

<i>Institution</i>	<i>Authority</i>	<i>Number of cases studied</i>	<i>Percentage feeble-minded</i>
Sing Sing Prison (N.Y.)	Dr. Bernard Glueck . . .	608	21.8
Auburn Prison (N.Y.)	Dr. Frank L. Heacox . . .	459	35.6
Mass. State Prison (men)	Dr. A. W. Stearns and C. C. Rossy . . . . .	300	22.0
Joliet Penitentiary (Ill.)	Louise and George Ordahl . .	49 <sup>1</sup>	28.5
Auburn Prison (women)	Mabel R. Fernald, Ph.D. . .	76 <sup>1</sup>	25.0
Indiana State Prison .	Dr. Paul E. Bowers . . .	100	23.0
San Quentin (Cal.) . .	. . . . .	150	30.7

Of the inmates in prisons throughout the country, where studies have been made, 27.5 per cent are found to be feeble-minded.

It is clear from Tables I and II that within the prisons, reformatories, penitentiaries, and workhouses throughout the country there is found a large group of prisoners who exhibit nervous and mental abnormalities, who are mentally crippled or mentally ill. Fifty per cent of the inmates of these institutions require much more specialized and much more individualized treatment than is afforded by the ordinary routine methods employed in the average penal institution. This is not a sentimental consideration but a practical measure looking toward social security. Laying aside the humane element involved, the paramount interests of society are jeopardized if we ignore the well known facts of individual differences.

<sup>1</sup> Women.



Feebleminded delinquents comprise from 27 to 29 per cent of the inmates of penal and correctional institutions throughout the country. Just what sort of a problem the seriously delinquent feebleminded person may present is seen from the following study undertaken in connection with the Municipal Court of Boston:

The careers of 100 feebleminded delinquents were intensively studied; the case histories were taken from the court files alphabetically, no other selection being required than that each individual should have been diagnosed feebleminded. The 100 persons in this particular group were arrested 1825 times; record cards dating further back than five years were not gone into though many of the hundred had had earlier court records. The futility of employing for this group measures intended for those capable of profiting by experience is shown from the following facts:

These delinquents in court were discharged after short periods of detention or judicial reprimand a great many times but they returned with unfailing certainty to be handled over again. They were placed on probation 432 times, but had to be placed on inside probation, that is, within institutions non-penal in character, 118 times. Of the remaining probationary periods, 220 were unsuccessful, the individuals again having to be surrendered to the court, making in all not quite one successful probationary period for each of these 100 individuals. The chances were better than four to one against any one of these individuals conducting himself normally for a six months' probationary period.

The court, in addition to probation for these individuals, tried penal treatment. They were sentenced 735 times, their sentences aggregating in fixed time one hundred and six years' imprisonment, exclusive of 250 indeterminate sentences to the reformatories. But this did not in any way suffice to change the course of their careers.

Finally as an explanation of all this maladjustment, examination disclosed that none of these 100 persons possessed a degree of intelligence above that of the average American child of twelve years. About 75 per cent had the mental level of children under ten years. Investigation into the past histories disclosed the astounding fact that 75 per cent had never been legitimately self-supporting. Worst of all, so far as society's responsibility is concerned, 73 per cent of these persons, though having ample opportunities for common-school

education, beginning school at the usual age and leaving at the age of fourteen, fifteen, and sixteen years, were never able to get beyond the fifth grade in school.

How much more profitable would it have been if the condition from which these persons were suffering had been recognized during the school period when a chance existed in each and every case either for some advance along the lines of proper habit-training, thereby saving much economic waste, protecting society as well as these individuals themselves from their weaknesses and making them useful members of the community, or for placing them in a limited environment suited to their special needs!

So far in this report we have endeavored to emphasize two things:

1. That the recidivist is the real problem in the prevention of crime; in him we have failed to accomplish that which we set out to achieve.

2. That an important and probably the most important underlying causative factor in this failure to profit by such experience is the defective mentality by which the recidivist is so commonly handicapped. In this connection recent studies<sup>1</sup> made of a group of 100 immoral women and a group of 100 drunken women showed that among the immoral women 39 per cent of first offenders, 47 per cent of second offenders, and 84 per cent of recidivists were suffering from some form of mental or nervous handicap; that among drunken women 35.4 per cent of first offenders and 82.2 per cent of recidivists exhibited some nervous or mental abnormality. The relation between the mental condition of these persons and the frequency of their offense is obvious.

The existence of mental disease and deterioration, intellectual defect, psychopathic personality, epilepsy, and the like, in a fairly large proportion of the inmates of these institutions makes clear and obvious how futile it is merely to go on blindly administering the law instead of endeavoring to solve the problems these individuals present. A similar situation in the treatment of disease would consist in sending all sick persons regardless of their disease to hospitals to be given the same treatment, fixing in advance the length of time they were to

<sup>1</sup> V. V. Anderson, M.D., and Christine M. Leonard, M.D., "The Immoral Woman as Seen in Court: a Preliminary Report," *Boston Medical and Surgical Journal*, Vol. CLXXVII, December 27, 1917, pp. 899-903; "Drunkenness as Seen among Women in Court," *Mental Hygiene*, Vol. III, April, 1919, pp. 266-274.

remain there and at the end of this arbitrary period sending them out without any reference to whether they were well or not. Are we not following the same lines in locking up criminals and then turning them out, and then locking them up and turning them out again, without any reference to whether our purpose in locking them up has been attained; or whether they are any better fitted to assume their normal relation to society on the day they leave prison than they were the day they entered it?

Even where scientific studies and classifications have been undertaken, if these have not been made the basis for treatment, nothing in the way of benefit to the individual or security to society can be said to have been accomplished by such investigations. The mere knowledge of the existence of these conditions, the mere labeling of a certain number of prisoners as intellectually defective or mentally diseased or deteriorated, or psychopathic, is not enough. Such knowledge should be made the basis for treatment. Constructive efforts should be made to rehabilitate these persons in the light of the needs of each individual prisoner, not only of his disabilities, but of his capabilities and his adaptabilities. The machinery of the penal institutions should be so organized as to enable it to carry into effect such recommendations as would be suggested.

But as indicated from the foregoing tables, such a heterogeneous group as is to be found in all penal institutions, composed as it is of types requiring entirely different lines of treatment, would preclude the possibility of carrying out this program in every one of the units of a penal system in a great state like New York; therefore, those who have given thoughtful consideration to the problem feel that the situation could be handled best by establishing clearing houses with medical clinics, through which would pass all prisoners sentenced to prison and reformatory institutions.

There is no question more closely linked up with the fundamental duty of the criminal courts, the protection of society from antisocial acts, than the proper disposition of those who, through no fault of their own, are suffering from mental handicap, and who, because of their mental condition, are liable to become a burden and a menace to the community. This fact is being fully appreciated by judges throughout the country and in many places attempts are being made to secure proper medical assistance. In two cities, Boston and Chicago,

TABLE III. RELATIONSHIP OF MENTAL DEFECT AND DISEASE TO  
SELECTED TYPES OF PROBLEM CASES IN COURT

DIAGNOSIS	100 DRUG USERS	100 IMMORAL WOMEN	100 SHOPLIFT- ERS	100 DRUNKEN WOMEN	100 VAGRANTS
Normal . . . . .	18	20	22	11	2
Dull Normal . . . . .	20	32	12	21	8
Feeble-minded . . . . .	28	30	25	32	36
Epileptic . . . . .	4	6	10	8	2
Alcoholic deterioration . .	..	2	..	7	12
Drug deterioration . . .	14	2	..	..	4
Psychopaths . . . . .	14	7	23	10	8
Psychosis . . . . .	2	1	8	11	28
Total exhibiting abnormal mental conditions . .	62	48	66	68	90

special medical clinics have already been officially created within the municipal courts, contributory to a better understanding and a more intelligent treatment of offenders coming before these courts.

It is not to be expected that medical clinics in the courts can ever take the place of clearing houses in the prisons. Such opportunities for prolonged observation and investigation into the causative factors underlying careers, not to mention the advantages afforded from intensive vocational training and physical and mental rehabilitation of the prisoner, cannot be secured in the short time allowed for the study of a case in the lower courts. What these clinics can do, and most effectively do, is to act as a net or sieve for the court, to determine beforehand those who, because of constitutional defects and mental handicaps, are less likely to profit by the routine measures employed by the court in dealing with delinquents, and who, because of such pathological conditions, carry the potentialities for delinquent careers. As a result of the use of these clinics the feeble-minded and mentally diseased and deteriorated persons will no longer be tried again and again on probation and after probation has failed, be sentenced for short periods of confinement in jails, lockups, and houses of correction, losing thereby whatever opportunities there might have been for restoring to health the mentally sick and preventing character deterioration and criminal tendencies in the mentally defective.



Such clinics should reduce the number of criminal insane. The early manifestations of their condition would be noted on the appearance of these individuals as petty offenders in the lower courts, and through the agency of the clinics, measures would be set in motion towards restoring them to normal health. Through the establishment of such clinics, the feeble-minded—the “mental children”—passing through adult courts, whose so-called crimes have been more the consequence of neglect and ignorance on the part of the community than of any innate wickedness on their part, will be dealt with squarely on the basis of their needs as well as their deeds.

But this is only a part of the helpful service furnished by medical clinics within the courts. The large percentage of criminals suffering from physical disabilities is attested by reports coming from penal institutions throughout the country. During the administration of Dr. Katherine B. Davis, arrangements were made to give all inmates of New York City correctional institutions the same physical examination as that required for admission to the United States Army. In the Reformatory for Male Misdemeanants of New York City, where the inmates average barely twenty years of age, only 8 per cent passed the required physical examination. In the penitentiary, where the average age is greater, only 5 per cent passed the required examination. In the workhouse, where those who are “down and out” are to be found in large numbers, only 1 per cent passed the required examination.

All studies that have been made of offenders passing through the lower courts show a startling number of individuals suffering from acute and chronic physical diseases, such as tuberculosis, Bright's disease, asthma, heart disease, syphilis, and gonorrhea. The vital importance of the early recognition of these conditions cannot be overestimated. Their relationship to an individual's industrial efficiency and through this to his delinquency, may be seen from the following study made at the clinic of the Boston Municipal Court.<sup>1</sup>

A group of a thousand delinquents was studied with the purpose in view of determining what part, if any, routine physical examinations might play in the disposition of a delinquent's case in court and later

<sup>1</sup>V. V. Anderson, M.D., and Christine M. Leonard, M.D., “A Study of the Physical Condition of One Thousand Delinquents Seen in Court,” *Boston Medical and Surgical Journal*, Vol. CLXXVIII, June 13, 1918, pp. 803-807.

in the institutions of reconstructive measures while on probation. It was found that 85 per cent of those in good or fair physical condition had been and were still self-supporting, while only 18 per cent of those found to be in poor or bad physical condition had been and were still self-supporting.

That 96 per cent of those regularly employed were found in good or fair physical condition, while only 4 per cent were found to be in poor or bad physical condition. That 86.3 per cent of those who were rated as "never worked" were found to be in poor or bad physical condition. The chances of being self-supporting were more than four to one in favor of the individual in good physical condition. Further, 47 per cent of these individuals, practically every other person, was suffering from syphilis or gonorrhea. Only positive laboratory findings were included.

Certainly something more than intelligent advice, short terms of confinement in prison, general supervision in the community, and securing employment, is needed to solve the problem presented by the delinquent whose physical endurance is rapidly diminishing under a progressive Bright's disease, or the delinquent who is scattering syphilis and gonorrhea broadcast into the community. These may be conditions of more vital importance to his future welfare and to that of the community in which he lives than any other consideration.

The help that medical clinics will be to the court in determining the presence of these conditions and securing the proper protection to the community and treatment of the individual is obvious.

## CHAPTER XXXII

### INVESTIGATION AND RECORDS OF CRIME AND CRIMINALS

#### 114. THE IMPROVEMENT OF CRIMINAL STATISTICS IN THE UNITED STATES<sup>1</sup>

*History.* The beginnings of the Science of Criminal Statistics may be traced back to the year 1829. In that year, Guerry, whom Von Mayr regards as the founder of Moral Statistics,<sup>2</sup> published a small pamphlet on criminal statistics. On July 9, 1831, Quetelet delivered before the Royal Academy of Brussels his address, "Recherches sur le penchant au crime aux différens âges." With the further publication by Guerry in 1833 of his *Essai sur la statistique morale de la France*, the science of criminal statistics may be said to have been fully launched.

In this country, New York state has the honor of being the first government unit of any size to collect data on which statistical studies of crimes and criminals might be based. In the same year that Guerry published his pamphlet on criminal statistics, that is, in 1829, it was made the duty of the clerks of courts of record to enter judgment of any conviction in their minutes and to send to the Secretary of State a transcript of these entries ten days after the adjournment of such court.<sup>3</sup> Such material, it was thought, would furnish valuable evidence of the former convictions of old offenders. In the first report of the Secretary of State on this material, appearing in 1838 and covering the period 1830 to 1837, we find frequent references to Quetelet's book, *Physique sociale, un essai sur le développement des facultés de l'homme*, which had in the meantime been published. The

<sup>1</sup> By Louis N. Robinson, Ph.D., Chief Probation Officer in the Municipal Court of Philadelphia, *Quarterly Publication of the American Statistical Association*, Vol. XVII, No. 130, pp. 157-159, 162-163. Adapted from paper read before the eighty-first annual meeting of the American Statistical Association.

<sup>2</sup> *Statistik und Gesellschaftslehre*, Vol. I, 1895, p. 185.

<sup>3</sup> Louis N. Robinson, *Criminal Statistics in the United States*, p. 46.

connection, therefore, between the beginnings of criminal statistics on the continent of Europe and in this country is close. Massachusetts and Maine were the next states to collect statistical information on crimes and criminals, and this practice, of compiling data taken from the records of the courts themselves, or from material in the hands of district attorneys or similar officials, soon spread to other states.

Not content with the collection of judicial criminal statistics, two states, Massachusetts first and New York second, in 1834 and 1839 respectively, determined to obtain from those into whose custody prisoners were placed, i.e., the keepers and the sheriffs, certain data somewhat analogous to that obtained from the courts and the court officials. In my book the *History and Organization of Criminal Statistics in the United States*, I have termed statistics of this kind "prison criminal statistics" in order to differentiate between the two sources of statistics of crime and criminals.

The establishment of state boards of charities and correction and of state boards of control has given a further impetus to the collection of both judicial and criminal statistics, and the recent movement to create state departments of public welfare may be expected to further the development of each form of criminal statistics.

Turning now to the efforts to obtain criminal statistics for the country as a whole, we find that it was not until the census of 1850, twenty-one years after New York had begun the task, that the Federal Government became sufficiently interested to collect information of this character, and even then it was done only in a meager and half-hearted way. In fact it was not until 1880, when Mr. Frederick H. Wines was placed in charge of the division of Social Statistics relating to pauperism and crime that a genuine attempt was made to give to the public a statistical picture of our criminal population. Again in 1890, Mr. Wines was placed in charge of this work, and the plan of 1880, with some slight modification, was carried out. Owing to the fact that the work of the decennial enumeration in 1900 was limited to the inquiries relating to population, mortality, agriculture, and manufactures, the collection of criminal statistics by the Bureau of the Census was not made again until 1904.

Although Mr. Wines had planned in 1880 to compile facts obtainable from court dockets, he seemed to have met with little success, and the effort was not repeated by the census officials until 1907.



This attempt also proved a failure, and we must, therefore, confess to the world that as a nation we have not yet been able to do more than to collect what I have termed prison criminal statistics, and these only at long intervals.

In 1904, a change in the policy of collecting the prison criminal statistics was made. In 1880, and again in 1890, the statistics dealt with those in prisons on a certain day of the year, but in 1904 the emphasis was placed on those who had been committed during the year, a practice which was followed in the enumeration of 1910 and which all statisticians today will agree ought to have been inaugurated at the beginning.

In 1911, I stated that the criminal statistics which were put out by state governments were, almost without exception, poor, and I have seen little reason to change my opinion of their character since that time. The best criminal statistics we have are those published by the Federal Bureau of the Census, and these are far from satisfactory for two reasons: first because they appear at such long intervals, and secondly, because they are based on data obtained from institutions and not from records of the courts and are, therefore, very incomplete, since they do not include those whose punishment is other than commitment. For example, the total number of juvenile offenders committed to juvenile reformatories during the year 1910, is given in the Report of the Bureau of the Census as 14,197.<sup>1</sup> During the calendar year 1919, 1242 juvenile offenders were placed on probation by the Municipal Court of Philadelphia alone, a little more than one-twelfth of the total number committed in the United States to juvenile institutions during the calendar year 1910, and more than any one of the forty-eight states, except New York, committed during that year.

I, for my part, feel that in the recent report of the Bureau of the Census we can find good reason for continuing the collection of these statistics, incomplete as they are, if we can do no better. I find, for example, that "Of the 493,934 prisoners and juvenile delinquents committed to penal or reformatory institutions in 1910, 278,914, or 56.5 per cent, were committed for non-payment of fine."<sup>2</sup> That fact alone is sufficient to justify the whole inquiry, since it throws into sharp relief what many of us have long contended, that the poor in this land do not get a square deal from the courts. Let me quote

<sup>1</sup> *Prisoners and Juvenile Delinquents*, 1910, p. 158.

<sup>2</sup> *Ibid.* p. 41.

another statement from the same report: "Of the total number of commitments in the year 1910, 170,977, representing 34.6 per cent, or more than one-third, were for drunkenness; 91,928, representing 18.6 per cent, or almost one-fifth, were for disorderly conduct; and 50,302, or 10.2 per cent, were for vagrancy."<sup>1</sup> Together these three crimes account for 63.4 per cent of the total number committed.

*Recommendations.* I must content myself with making the following suggestions to the Bureau of the Census:

1. That the Bureau of the Census be requested to appoint either for full or part time a special agent whose duties shall be:

a. To visit the various state boards or state officials charged with the collection of either prison or judicial statistics, and to ascertain the problems with which they are confronted in carrying on this work.

b. To visit the offices of district attorneys, clerks of court, institutions, etc., and to examine their systems of record keeping with a view both to noting the facts therein contained and also to devising more adequate systems.

2. That the Bureau of the Census prepare a brief study of the jurisdiction of the courts in each state and keep the same up to date.

3. That on the basis of the report of the special agent and the study of the jurisdiction of the courts, a plan for the further improvement of criminal statistics be formulated, and the aid of such organizations as the American Institute of Criminal Law and Criminology and the Statistical Association be requested in putting the plan into effect.

No paper plan will succeed. Foundation work such as I have suggested will have to be undertaken. Surely, too, we have a right to look to the Bureau of the Census for the long persistent effort which will be needed to make criminal statistics a reality in the United States. Central guidance is also necessary, if there is not to develop such differences of practice by state boards and state officials as will render the task of whipping the statistics of the various states into a unified whole impossible. Many persons will say that the differences already found in the states regarding penalties and definitions of crimes make the task unthinkable; but these differences have not prevented the collection of fairly good prison criminal statistics and they should not prove to be insurmountable obstacles in the collection of judicial criminal statistics.

<sup>1</sup>Ibid. p. 30.

115. SYSTEMS OF IDENTIFICATION OF CRIMINALS<sup>1</sup>

Intelligent police action is today based primarily on criminal files. Detectives and magistrates alike must be acquainted with the criminal propensities of specific individuals; they must be armed with accurate knowledge of the past records of those whom they arrest or suspect. Such records as these, however, classified merely by names, do not in themselves furnish an infallible instrument. Without an accurate method of identification, the simple invention of an alias or any other disguise will, if undetected, invalidate the entire system. Indeed, the usefulness of criminal records depends upon the ability of the police to fasten upon each human being an identity from which he cannot escape. Criminals must be differentiated from the rest of the population as well as from each other. Means must be discovered to prevent a person guilty of crime from losing or destroying his identity. Formerly the police were forced to depend on descriptions and photographs, but these methods proved by no means reliable, for the modern criminal is an adept in altering his personal appearance. More certain methods were essential, and for years the science of crime detection concerned itself largely with the search for an infallible system of identification.

When, therefore, in 1883, Bertillon announced an exact method of identification by means of measurement he placed the entire world in his debt. His system was adopted in nearly every civilized country. England, Germany, Austria, Russia, Switzerland, and many states in the United States applied it in their police departments, and the Bertillon cabinet became the distinguishing mark of the modern police organization. During this time Bertillon was constantly developing his identification methods. To the measurements he added, as sub-classifications of his system, his famous descriptive photography (*portrait parle*), and his method of grouping colors and characteristic marks. Later, as we shall see, he added finger-prints, producing the so-called *Parisian fiche*, which is made up partly of bodily measurements and partly of papillary line patterns. Of the ten fingers, Bertillon utilized at first only four of the left hand. Only recently did he

<sup>1</sup>By Raymond B. Fosdick, author of *European Police Systems*. Adapted from "The Passing of the Bertillon System of Identification," *Journal of the American Institute of Criminal Law and Criminology*, Vol. VI, No. 3, pp. 363-369.

consent to use all ten. The Bertillon criminal card, therefore, while classified by means of measurements, involves other methods of identification.

It cannot be denied that the Bertillon system is soundly based on scientific principles. Accurately measured, no two people will ever show the same dimensions. But to take measurements with even a fair degree of accuracy requires special training, and in many cities such training is not to be had. Indeed, in America at least, training along this line is the exception rather than the rule. In some of our southern and middle western cities, where, as a matter of fact, the Bertillon system seems to be regarded as a fetish rather than a scientific method of identification, I have seen so-called experts measuring prisoners without even a knowledge of where to place the instruments, obtaining results so ludicrously inaccurate as to eliminate any chance of identification.

But a system must be judged by its use rather than its abuse. Even in Europe, where the Bertillon method has been tried under the most favorable circumstances, there has been constant complaint of its inaccuracy—or rather of the difficulty of using it with sufficient skill to produce accurate results. Primarily it is a system for use by highly trained men. Bertillon's genius was far above that of the average police official, either in Europe or America.

However, the Bertillon system has lost its hold not so much through its own inherent defects as through the creation of a better and simpler system—dactyloscopy. Largely the work of Sir William Herschel and Sir Francis Galton, this system was first made really practicable for police purposes by a method of classification devised by Sir Edward Henry, now Commissioner of the Metropolitan Police Force of London. After a trial by the English authorities in India, the system was introduced at Scotland Yard in 1901. Its astonishing success there was soon brought to the attention of police authorities in other countries and in the next five years it was introduced widely throughout Europe. The utility of the finger-print system of identification is not affected by divergencies in methods of classification, nor is the exchange of finger-prints between departments in any way hampered.

For the keynote of dactyloscopy is its simplicity. The only accessories needed to take finger-prints are a piece of tin and some printer's ink. Any person, whether educated or not, can perform the



function with half an hour's practice. There is no possible margin of error, as finger-prints are absolute impressions taken from the body itself. Moreover, the ordinary system of classification is so simple as to facilitate ready search. As an example of the speed with which a search can be made under the Henry system of classification, my finger-prints were taken at Police Headquarters in Vienna, properly classified and filed with perhaps a hundred and fifty thousand others. An official who had not been present was called in and after taking my finger-prints afresh, was able, after three minutes' examination, to find my card in the files. This experiment was repeated for me in perhaps a dozen cities in Europe.

Finally, the finger-print method is advantageous in affording the police frequent opportunity to discover the perpetrator of a particular crime through marks which he leaves behind him. The finger-print system is, therefore, available for two purposes: first after arrest to identify a prisoner with a previous criminal record; second, to discover the author of a particular crime before any arrest is made by comparison of finger-prints left behind him with finger-print cards on file at headquarters.

The inability of the Parisian police authorities to discover the author of the theft of "Mona Lisa" was due distinctly to Bertillon's method of classification. The thief, Perugia by name, had been in the hands of the Paris police on a previous occasion, when his finger-prints were taken. Finger-print impressions were left on the frame of the picture, but his record in Bertillon's file was not found because measurements, rather than finger-prints, constitute the primary classification. Under a pure dactyloscopic system, such as is employed in Rome, Vienna, Berlin, Munich, Dresden, London, or any of the provincial cities of England, the identity of the thief could have been established in half an hour.

In terms of actual results, the superiority of the finger-print system can readily be established. In England and Wales, for the year ending December 31, 1911, the number of identifications made by the finger-print system was twenty times greater than the largest number effected in previous years by the anthropometric method.

116. AIMS AND METHODS OF THE SURVEY OF CRIMINAL JUSTICE IN CLEVELAND<sup>1</sup>

This book [*Criminal Justice in Cleveland*] embodies the results of a scientific study of the present system of criminal justice in Cleveland, Ohio. The inquiry had two aims: first, to render an accounting of the functioning of this system, to the fullest extent that social institutions are as yet adapted to statistical appraisal; and, second, to trace to their controlling sources whatever defects in the system the inquiry disclosed.

For some time previous to this survey Cleveland had been restive under a growing feeling of insecurity of life and property. The fifth largest city in the country entertained a wide-spread conviction of its failure in the most primitive function of government. In the spring of 1920 this feeling was brought to a head. An atrocious and sordid crime, implicating the chief judge of the city's municipal courts, stirred to action dormant civic pride. With rare self-restraint and self-knowledge the leaders of the community realized that the city had the feeling, but not the understanding, for action. They had the insight to realize that this sensational case was but symptomatic of deeper causes. In a word, a problem in social sanitation and social engineering was presented. Therefore, in the winter of 1920, a number of civic organizations, headed by the Cleveland Bar Association, requested the Cleveland Foundation to undertake a survey of the administration of criminal justice in Cleveland.

Doubtless, to a considerable extent, the survey proved what was already suspected by many and known to a few. The point is that the survey proved it. Instead of speculation, we have demonstration. Now, one ventures to say, there is no possible excuse for a citizen of Cleveland not knowing the shortcomings of the system, and the indispensable conditions for their correction. The system is judged not by the occasional dramatic case, but by its normal, humdrum operations. In order to ascertain how law functions as a daily instrument of the city's life a quantitative basis for judgment is essential.<sup>2</sup>

<sup>1</sup>From *Criminal Justice in Cleveland* (pp. v-ix), by Felix Frankfurter, LL. B., Byrne Professor of Administrative Law in the Law School of Harvard University. Copyright, 1922, by the Cleveland Foundation.

<sup>2</sup>The statistical method is set forth in an appendix by Professor C. E. Gehlke.

On the other hand, early in the investigation it became plain that the system of criminal justice had some of its roots deep in the whole social and spiritual life of the city. The sources of opinion and of education and the very social ideals of the community all bear their important share in that manifestation of its social life which we call criminal justice. Here we are confronted with a choice of social standards which cannot be statistically established. But here, too, we must work in the light of experience, and with that objective habit of mind which we call the scientific spirit.

The nation-wide response to *Main Street* indicates that every town, whether large or small, is in part a Gopher Prairie. These surface uniformities of our American cities must not be allowed to obscure their diversities. For every little Main Street, as every big Main Street, is also unique. And this uniqueness is significant, or must be made significant, if American life is to have distinction and depth. It is necessary to emphasize this truth in applying the Cleveland survey to other cities. Specific impulses gave birth to this survey; it was conditioned by the specific problems presented by Cleveland—its traditions, its rate of growth, its racial composition, its politics, its press, its bar. Not only was the study thus defined by the environment out of which it grew and in which it was moving, but in some aspects this was a pioneer study and had to improvise its own technique and procedure. These local limitations and empiric efforts debar blind imitation of this survey by other communities. In any city a survey of its administration of criminal justice must grow out of its own needs and be guided by its own individuality.

Nevertheless, the most outstanding features of criminal justice in Cleveland, namely, the practical breakdown of criminal machinery, has its parallel in other cities. The deep-seated causes for this condition—rooted, as they are, in modern industrialism and in the prevalent standards of the community, which turn into a menace the early American machinery and methods of law enforcement—will be found in other cities throughout the country,<sup>1</sup> as the survey found them in Cleveland. In view of the fact that the problem and its causes are common to many American cities, it may be pertinent to summarize the broad principles upon which the Cleveland survey was planned and executed.

<sup>1</sup>See *infra*, Title 118, by Chief Justice William H. Taft.—ED.

1. *Impersonal aims.* From the outset it was insisted that present-day machinery and methods are largely the heritage of conditions which have fundamentally changed. The problem is more comprehensive and its elements more manifold than the good-man-bad-man explanation of political phenomena assumes. Personalities, of course, play their part, but a relatively small part. The task is that of diagnosing the causes of a system whose origins must be traced back to social, economic, and political conditions distant in time and different from the present, and whose consequences cannot be understood apart from the civic standards and economic preoccupations of today. "Head-hunting" was from the first disavowed. The search for causes rather than for victims had repeatedly to be insisted upon as the only aim of the survey, for blame of someone in office, or of the "boss" behind the scenes, is the natural, uncritical desire of people and of the press, which stimulates that desire. A personal victim for a complex community failure satisfies the sense of the dramatic, at the same time that it affords the luxury of vicarious punishment. But where the whole system of criminal justice has broken down under the weight imposed upon it by industrial urban life, the trail of authentic and thorough diagnosis must not be diverted from essential causes to occasional officials who exploit these causes.

2. *Scientific and professional direction.* To resist effectively the local demand for "head-hunting" requires disinterested, scientific direction of the survey. In Cleveland the survey was in the hands of men whose professional interest is the scientific administration of justice adapted to modern industrial conditions. Theirs was the final authority and theirs the responsibility. Only thus can it be insured that relevant factors are neither avoided nor their analysis withheld, nor, on the other hand, exploited to serve any interest other than truth-finding.

3. *Non-resident investigators.* A disinterested and impersonal investigation also means that the investigators in charge of different divisions of the inquiry must be non-residents. Only thus can the subtle and often unconscious forces of fear and favor be wholly avoided. The Cleveland investigators were wholly indifferent to all Cleveland personalia. Neither past entanglements nor future embarrassments influenced in the slightest the scope of the inquiry or its thorough pursuit.



4. *Local advisory coöperation.* While outsiders must direct and investigate, they must work with the forces of the community. Wholly apart from the necessity of full and easy access to the local material, it is indispensable to check up and interpret the record data, the statistical material, by intimate city traditions. Such a survey deals with social phenomena, and statistics are, in part, meaningless without human illumination. From the start the Cleveland investigation was greatly aided by an advisory committee representative of the manifold interests of the city. This survey could not have been made without the unstinted devotion, the civic influence, the professional equipment of Mr. Amos Burt Thompson, the Chairman of the Advisory Committee. But such a committee must be strictly advisory. It cannot be too often repeated that the responsibility for the scope of such an inquiry and for its results must rest solely with the directors of the survey. Not the least of Mr. Thompson's services was his fastidious loyalty to this principle.

5. *Indifference to "quick results."* Since the aim of such a study is strictly scientific, all exigent considerations, such as specific quick results or the effect on a forthcoming election, are irrelevant and destructive. The effort must be wholly concentrated on accurate investigation, significant interpretation, and fruitful suggestion. Of course, at bottom all such surveys are successful to the extent that they serve as means for the education of the community; and the press is undoubtedly the most important single instrument of civic education. But this consideration comes into play after the survey is completed, not while it proceeds. The newspapers must not be fed with hopes or hints. Nor must the progress of the inquiry be influenced in the slightest by the impatience, or the indifference, or the criticism of the press. If the survey finally produces a searching diagnosis, the newspapers will not be able, nor will they want, to neglect it.

6. *Checks against inaccuracy.* There ought to be no question as to the accuracy of the facts upon which judgments or recommendations are based. The material for opinion ought to be indisputable. Therefore, before the results of the survey were published, they were thoroughly thrashed out with the Advisory Committee, and then submitted for comment to the officials administering the respective departments under investigation.<sup>1</sup> There is thus furnished an authentic

<sup>1</sup> Except where the officials themselves preferred not to consider the findings.

and agreed analysis of the facts, leaving for discussion the relatively narrow field of the inferences that flow from the facts and the changes which they suggest.

These, briefly, were the general principles which guided the planning and the execution of the Cleveland survey, always bearing in mind that the dominant factors were the scientific aim and the disinterested, professional devotion of the investigators. Thus far the work is that of outsiders—and there is little they can do beyond. The rest is with the community—but the rest is everything. First comes publication of the results of the survey through public meetings, pamphlets, press, and book; and then a sustained educational campaign to translate the results of the inquiry into a new civic outlook—a deeper understanding of the exactions of democracy, and of the fashioning of machinery and methods adequate to modern needs and equipped for self-appraisal.

A community which expects quick results or panaceas is doomed to disappointment. So much of our "reform" effort does not stay "put" because the aim is to "put things over." The complexities of an industrial democracy cannot be solved by the psychology of advertising. The starting-point of reform is the education of the public to the necessity of a sustained interest. The conditions disclosed by this survey—and the recent Massachusetts revelations show that no community can throw the first stone—can be rectified only if the community is aroused to the necessary persistent, unostentatious, detailed effort. That will come if the community cares—or if only a small part of it cares hard enough. At best, however, the task is one in which time is a necessary element and continuity of effort indispensable.

## CHAPTER XXXIII

### THE JUSTIFICATION OF PUNISHMENT

#### 117. THEORIES OF PUNISHMENT<sup>1</sup>

Ask the man in the street why a thief is sent to prison, and in all probability you will receive one of two answers: he will say, "because he has stolen," or "because it would not be safe to allow him to remain at large." These homely replies illustrate the two fundamental principles which have competed, since Grotius's time, for supremacy in the theory and practice of punishment. The substance of the rival doctrines has been compressed into short formulæ, borrowed from the writings of Seneca: according to the one we punish "quia peccatum est," according to the other "ne peccetur."

Grotius defines punishment as "malum passionis quod infligitur ob malum actionis," as the infliction of pain on a person because he has done wrong, and the school of which he may be regarded as the intellectual father has steadfastly adhered to the view that the ground of punishment must be sought in the criminal act itself, its justification in the culpability of the offender. Punishment is "the correlate" (Grotius), "the equivalent" (Berolzheimer), "the supplement" (Bradley), of guilt, and is inflicted upon the evil-doer because he deserves it. Its function is "pensatio mali cum malo," "to dissolve the vinculum juris to which crime gives rise, by meting out to the transgressor his due" (W. S. Lilly), to adjust and close an account by discharging the debt which he has incurred. Grotius indeed, goes so far as to compare punishment with the fulfilment of an implied term of a contract; it is a consequence which the criminal by the commission of the act has accepted and assented to. In any case, he pays the penalty because he owes it, and for no other reason. Punishment, then, has its root entirely in the past; it is an end in itself and does not serve any extrinsic purpose.

<sup>1</sup> By Heinrich Oppenheimer, D. Lit., LL. D., M. D., *Rationale of Punishment*, pp. 179-183, 231-239, 255-261, 281-295. University of London Press, 1913.

Plato (*De Legibus*, Book XI, p. 934) and countless writers since have found it impossible to accept the position that mere regard for an immovable past should supply a sufficient motive for the infliction of punishment. They resent the assumption that evil must be met by counter-evil in the shape of pain to the wrong-doer. It does not stand to reason, they argue, that the state should set up and keep going a complicated and costly machinery whereby deliberately to cause suffering to any class of citizens, unless it be in the sure and well-founded expectation that good will ultimately result from its operation. The justification of punishment must, therefore, be sought in some future advantage, and, since it is the function of the state to serve the ends of society, in the social benefits which it vouchsafes. By its fruits alone can it be justified, as a rational means for the furtherance of the objects of the state, whatever these may be.

In German legal philosophy the rival schools are known as "absolutists" and "relativists," because the latter account for punishment by a "*relatio ad effectum*," the former by an "*absolutio ab effectu*." But these expressions hardly convey the proper meaning to the English reader. It is obvious that if the ground of punishment lies in the misdeed, if crime cries aloud for punishment, punishment becomes a necessity, and the state has no choice in the matter, but is under an absolute obligation to chastise offenders. If, on the other hand, punishment is inflicted only because it is useful, the limits of its utility prescribe the limits of its application, and it is for the state to determine how far it can be administered with advantage for the accomplishment of the desired object or objects. Were it not for the technical meaning which they have acquired in metaphysics and in ethics respectively, the terms "necessitarian" and "utilitarian" would aptly describe the two doctrines. Again, since the one regards punishment as an end in itself, the other as a means for the attainment of an extrinsic purpose, we might, but for our horror of barbarisms, call them "autoteletic" and "heteroteletic." On the whole we think it best to choose the terms "transcendental"—with an apology to Kant—and "political," which, as will soon become apparent, draw attention to the most fundamental difference between the two classes of theories.

Of late years science has taken the bold step of challenging the value of punishments altogether. Whilst they agree with the advocates of the political doctrine in the demand that crime must be



suppressed in the interests of society, the apostles of the new criminological movement claim that punishment, having proved a very imperfect, if not an entirely useless, instrument, ought to be abolished, or at any rate given a quite subordinate place in a system of social defence, founded on a careful study of the etiological factors which are at work in the making of criminals. A critical examination of this view cannot well be omitted from a modern work on punishment.

The philosophy of punishment has, therefore, to be studied under the three following headings:

1. Transcendental theories of punishment.
2. Political theories of punishment.
3. Theories of modern criminology.

### *Transcendental Theories*

*Fiat iustitia, pereat mundus.*

We have seen that the view according to which punishment is an end in itself, the guilt of the actor its sole motive, postulates, when consistently adhered to, punishment as the necessary consequence of crime. This necessity is fully recognized and insisted upon by all the most prominent writers of the transcendental school. Their doctrines differ only in the source to which they trace the obligation of the state to strike down offenders, and the nature of that superior authority to the dictates of which the organ of society has to conform, supplies, therefore, the principle of classification of their theories.

1. It is in the fulfilment of its divine mission that the state dispenses punitive justice. To punish criminals is a religious duty. This is the theological view of punishment, of which the most uncompromising advocate is Joseph de Maistre.

2. The stain of guilt must be washed away by suffering in fulfilment of one of those metaphysical laws the meaning of which man, as a finite being, cannot comprehend, but to which he must yet conform, since his own infinite nature makes him part of the order of the universe of which that law is an expression. This is the expiatory theory of punishment according to the version of Joseph Kohler.

3. The moral law, which is binding on all rational beings, prescribes that crime shall be visited with punishment. The conception of punishment as a moral necessity has found in Kant its classical interpreter.

4. Crime postulates punishment as its necessary logical complement. This is the root-idea of Hegel's theory of punishment.

5. A misdeed displeases and continues to offend our sense of harmony as long as it remains unrequited. It is the function of punishment to resolve the discord and so to satisfy an urgent want arising within our aesthetic consciousness. The best-known advocate of this doctrine is Herbart.

### *Political Theories*

*Fiat iustitia, ne pereat mundus.*

Unlike the systems hitherto studied, the theories upon an examination of which we now enter discover the rationale of punishment, not in an absolute metaphysical truth, not in an immutable law of the cosmos, nor in a want of our individual organization that craves satisfaction, but in the aims and objects, realized in actual experience, of society as organized in the state. Upon this view crime is the necessary condition of, but not the reason for, punishment. Punishment, instead of being an end in itself, is but a means for the furtherance of the purposes of the state.

Subject to one exception to be presently mentioned, the political theories agree in regarding the security and welfare of society as the end to which punishment is subservient. The central idea in crime is that it constitutes a danger to society, which it is the function of punishment to ward off. The difference of opinion between the advocates of the doctrine turns entirely on the mode in which punishment is thought to accomplish this object. The main line of cleavage lies between those theories according to which it is in its infliction that punishment becomes operative as an instrument of social defence, and those which teach that the primary object of the state in providing penal sanctions is to prevent ab initio the commission of crimes by the threat of punishments. The latter view, elaborated by Feuerbach, may aptly be termed the preventive theory. The former group comprises several varieties which are not, however, in theory at least, mutually exclusive. Indeed, of the authorities who rely, for the protection of society, on the actual execution of punishment some attach equal importance to the several proximate objects by which that end is to be attained. Thus Blackstone writes (*Commentaries*, Vol. IV, chap. i): "The public gains equal security, whether the offender him-

self be amended by wholesome correction, or whether he be disabled from doing any further harm; and if the penalty fails of both these effects, as it may do, still the terror of his example remains as a warning to other citizens." Reformation, disablement, and determent are in fact the three immediate purposes for which punishments are believed to be inflicted.

The amendment of the criminal, whilst looked upon merely as a means for the protection of society by most advocates of the reformatory view, is conceived by others to be the final object of punishment. The state is credited, not indeed with the mission to realize an absolute moral order, but with the inclusion, among its positive purposes, of a self-imposed duty to provide for the moral education of the subject, in the fulfilment of which it attempts, by means of punishment, to bring about the moral regeneration of those of its citizens who have proved by their acts that they do not come up to the moral standard prevailing in the community, but stand in need of further moral training. Though radically different principles form the bases of the corrective view of punishment in the two cases, many of the criticisms which we shall have to offer, apply to both indiscriminately, and it will, therefore, be convenient to study them together.

Four classes of political theories, then, will require investigation:

1. The theory of determent.
2. The theory of reformation.
3. The theory of disablement.
4. The theory of prevention, or Feuerbach's theory.

### *The Theory of Determent*

When it is said that the object of punishment is to deter, the term "determent" is capable of different significations. The deterrent effect may be ascribed either to the perpetual threat with which penal rules are sanctioned and which operates upon the mind of every prospective offender, or to the infliction of punishment upon the actual transgressor. To escape from this ambiguity it is better to designate the first-named function of punishment as "preventive," a subject which will be studied in a subsequent chapter. But even if we confine the use of the expression "determent" to the result flowing from the actual execution of the criminal law, it is yet left in doubt whether

we refer to the influence which punishment exercises upon the wrongdoer himself who undergoes it, or to the example which his sufferings set to others. Upon the former view, the aim of punishment is to strike terror into the malefactor in order that he may be brought to his senses and be taught in future to obey the law; in other words, determent is but an instrument of reformation. Here we are concerned with punishment as deterrent in the sense that others are deterred from committing the crime for which the criminal is seen by society to suffer.

To provide the citizens with an object-lesson has been recognized, from early times, as one, though seldom as the sole, function of punishment. The same spirit of the law is well interpreted by the English judge who, when passing sentence of death upon a convicted horse-thief, remarked in reply to the latter's complaint about the want of proportion between the crime and the punishment: "Man, thou art not to be hanged for stealing a horse, but that horses may not be stolen."

Though determent has been one of the motives for punishment in the past, it may be thought that it has ceased to be so, at least in those countries in which public executions have been abolished. As Bentham remarks, you have to appeal to the eye if you want to move the heart, and in abandoning the means, the state may be held to have designedly repudiated the end. Now the reason usually assigned for this change of policy is that public executions were found to brutalize the spectators, to deprave the public feelings and to destroy that sympathy with suffering which it is the interest of the state to foster. Frequently, however, they produced the contrary effect and tended "to counteract in some measure their own design, by sinking men's abhorrence of the crime in their commiseration of the criminal" (Paley). Nay, more than that: a criminal displaying a certain bravado on the gallows had every chance of becoming to the masses an object, not of abhorrence, but of admiration, a hero among his kind. At the best, there was always the danger that familiarity with punishment might breed contempt for it, might blunt, instead of sharpening, the edge of criminal justice. The Vicar of Wakefield is quite right if he says: "The work of eradicating crime is not by making punishments familiar, but formidable." It is doubtful, however, whether these considerations would, in themselves, have been sufficient to induce the legislature to do away with public executions.



The true cause appears to be that they have had their day and no longer served any useful purpose. At a stage of civilization when, owing to the very primitive police organization and other causes, the authors of the majority of crimes remained undetected, it was necessary to utilize such malefactors as were caught and convicted in order to show in their person that the criminal law was not a dead letter, but a living reality. In our own days the discovery and actual punishment of the more heinous offences is a rule subject to so few exceptions that we look upon the administration of criminal justice as a matter of course, and there is, therefore, no need for its *demonstratio ad oculos*. But whilst the scope of deterrent punishments has thus been narrowed down in proportion to their limited range of usefulness, we still fall back upon them when circumstances render their application expedient. For if in a particular district a certain crime is greatly on the increase, our judges are in the habit of passing much severer sentences than if it were but rarely committed there, and they do so with the avowed object of stamping out offences of that kind. In the words of the Duke in *Measure for Measure*: "It is too general a vice, and severity must cure it."

Determent, then, as an aim of punishment, though it has lost much of its former importance, cannot be said to be entirely eliminated from the policy of modern courts of criminal jurisdiction. It is, however, quite out of harmony with modern sentiment. Not only is there a constant risk that the judge will incline to undue severity if the punishment of the one is to serve as an example to the many; but any punishment will strike the modern mind as both arbitrary and excessive which is standardized, not according to the quality of the offence, but according to the probability that persons whom the offender has never seen, will commit similar acts in the future. Attempts have, indeed, been made to justify the deterrent view of punishment by such arguments as the following: The criminal has, by his crime, forfeited the rights of citizenship. Society may, therefore, deal with him as it pleases; and instead of having ground for complaint, he has every reason to be grateful if he escapes with any treatment short of capital punishment. It is true instances may be quoted from the history of criminal jurisprudence where the criminal was looked upon as having outlawed himself, even before conviction, by the very act which constitutes the offence. But to found a modern theory upon such ancient

examples is to be guilty of an unpardonable anachronism. For modern law extends its protection even to the convicted criminal, and modern morality concedes rights to man as man, quite independently of all questions of citizenship. Most recent writers frankly confess that if punishment is awarded as a means of warning off others, the criminal who undergoes it is sacrificed to the ends of society, but many agree with Bentham in calling such sacrifice "indispensable." Unavoidable social necessity, but nothing short of such necessity, will reconcile modern man to a view of punishment which entirely disregards what Green aptly terms "the reversionary rights of the criminal." Circumstances do occur in modern life when a few exemplary sentences prove the most rapid means of restoring law and order; whether they are absolutely indispensable even on such occasions is a question difficult to answer. But it is certainly not permissible to base a general theory of punishment on what is exceptional, and this doctrine, upon which a class of human beings is, in Kantian phraseology, treated purely as a means, though still occasionally acted upon in forensic practice, cannot claim a high ethical value.

### *The Theory of Disablement*

Historically, the intention to deprive offenders of the power of doing future mischief has been very prominent among the motives with which punishments were inflicted. The punishments first in point of time were death and expulsion from the tribe, both means of ridding society of one who had proved a source of danger to it, either directly or indirectly by calling down upon the community the wrath of some deity whose displeasure he had incurred. Again, many of the so-called "characteristic" punishments were chosen, not for the sake of symbolizing the crime, nor, as is commonly alleged, as a sort of *talio*, namely for the purpose of visiting the sin upon the offending member, but in order to incapacitate the offender for repeating his offence. This accounts largely for the mutilations which played so prominent a part in the history of the criminal law. A similar motive affords a partial explanation for the practice of branding offenders. For in many cases to make a criminal recognizable as such is to disarm him.

Among the punishments now in use in civilized countries, those of death, transportation, and imprisonment for life are often cited as

complete realizations of the principle of disablement. According to some authors, very long terms of imprisonment embody the same idea : they hold that the rationale of long sentences is to be found in the expectation that the convict will leave prison an old man, too broken both in spirit and in body to do further harm. That the first-named punishments have the effect of permanently eliminating the criminal goes without saying. Similarly, any prisoner, as long as he is behind lock and key, whether his term be short or long, is, for the time being, forcibly restrained from making onslaughts on society. It does not, however, follow that that which is the result of punishment, is also the object with which it is inflicted. The opinion that incapacitation is the end, and not merely a by-effect, of punishments which permanently remove the offender from society, is contradicted in the case of those criminal systems in which several such kinds of punishment are found side by side, by the fact that the law exactly prescribes for what offences the one or the other is to be awarded. As they all answer the purpose equally well, one of them ought to have been chosen, on account of the collateral advantages which it offered, as applicable to all cases in which it seemed desirable to eliminate the offender : capital punishment on grounds of economy, or, where public sentiment will not tolerate the taking of human life by judicial sentence, either transportation or imprisonment for life, whichever of the two appeared preferable for other reasons.

There seems to be a complete consensus of opinion that these drastic measures ought to be resorted to only in the case of such malefactors as have shown themselves utterly unfit for life in society. Professional criminals and habitual offenders in general answer this description ; and penal codes seem to give practical recognition to this consideration when they provide that certain offences shall be punishable with a life sentence only after one or more previous convictions. But inasmuch as incarceration for life is not the sentence pre-appointed by law for such cases, but only the maximum allowed, the judge being generally clothed with a wide discretion, in the exercise of which he may award much shorter terms, it is not permissible to infer that the legislature intended to substitute, all at once when reaching the top, an entirely new principle for that which it had adopted all along the ascending line. Moreover, punishments which render the culprit permanently innocuous are not by any means restricted to old



offenders; instances occur in all modern penal codes where a single act of crime is considered a sufficient qualification. Take the case of murder in English law, which prescribes that sentence of death must, of necessity, be passed as soon as a verdict of guilty has been brought in. It might be said that a person who has committed a murder, has proved by his act that to him human life is a thing of no value and that he would not shrink back from shedding more innocent blood when it suited his purpose. And this view was obviously adopted by the malefactor, quoted by Henricus Stephanus, who, when sentenced to death for a seventh murder, petitioned the King of France for a pardon, and when his petition was refused, complained that the six last murders lay at the door of the king, whilst he, the actual assassin, was morally guilty of the first one alone; for if the king had done his duty by having him executed for the first, it would not have been in his power to commit any more. Yet circumstances are certainly imaginable which would render it highly improbable that a murderer would ever commit another crime, even if he were to go quite unpunished. A poor nephew kills his uncle whose heir he is, in order to satisfy the pressing demands of his creditors. The victim was rich beyond the dreams of avarice, and the murderer, having come into his property, has certainly every inducement henceforth to lead the life of a respectable and law-abiding citizen. Again, a man of hitherto unblemished reputation has, in the heat of passion, fired a bullet through the heart of his best friend, from whom he had received but the slenderest provocation. The catastrophe cannot fail to make a lasting impression on his mind, and he is more likely for the future to keep his passions in check than if their strength had never been brought home to him in so dramatic a fashion. On the principle of disablement there seems to be no reason why the state should come down upon either of these offenders. But would such a defence be admitted in a court of law? Certainly not. And if not, why not? Because the malignity revealed by the act of the former, the uncontrollable temper displayed by the latter constitute, in themselves, disqualifications for life in civilized communities. Thus would answer the advocates of the theory of elimination. Granting for the moment that the answer given sufficiently meets the two hypothetical cases adduced by way of objection, it can certainly not be relied on to explain the catalogue of crimes which legislatures have made capital or punishable with perpetual



imprisonment. Society has most emphatically less to fear from an accused person who has on one occasion forged the endorsement of a bill of exchange than from a professional thief, or from a brute who unhesitatingly knocks down the most inoffensive passer-by who happens to cross his path.

Criminal codes deal with crimes, not with criminals. Of modern penal systems Guizot's dictum still holds good that "punishment has a right but against crime"; in other words, the scale of punishments in actual legislation is determined in reference to classes of offences. Disablement, on the other hand, is a remedy appropriate to certain kinds, not of offences, but of offenders. It could, therefore, claim a rightful place only in such penal schemes as were built up on the foundation of Liszt's doctrine that "the object of punishment is not the crime but the criminal." The advocates of those theories according to which disablement is one of the ends of punishment, have felt this, though they do not all appreciate the trend of their opinions. They generally postulate elimination as the complement of reformation, as the punishment suitable for incorrigible offenders. If this position is once fully taken, the nature of the crime in respect of which the culprit has been proved refractory to all reformatory efforts, ceases to be material, and the incorrigible vagabond, the incurable thief, and the incorrigible murderer will all have to be dealt with in exactly the same way. This method of disposing of malefactors, then, has no longer the character of true punishment, but is a pure measure of social defence.

### *The True Function of Modern Punishment*

Realizing that certain classes of acts are highly detrimental to the commonwealth because they tend to subvert the fundamentals of political society, endanger the public order, or violate rights of the citizens the enjoyment of which the state regards as vital and, therefore, as worthy of special protection, the state attempts to prevent their occurrence by making them the subject of legal prohibitions of a particularly emphatic nature, the observance of which it seeks to enforce by means of contrivances believed to be eminently efficacious for that purpose. The acts so forbidden are crimes, the aggregate of laws containing such prohibitions forms the penal code, and the special

measures adopted in order to ensure obedience are called penal sanctions or punishments. In devising the latter, the state relies on the following psychological facts: Before the will is finally determined, a struggle goes on in the mind of a person who contemplates embarking on a certain course of conduct between two orders of motives, those which urge him on to pursue it and those which prompt him to desist. In this struggle the stronger of the two groups is bound to prevail, and the act will be done or left undone according as to whether, to use Bentham's terms, the "seductive" or the "repressive" motives proves the more powerful. If the act under consideration is a wrongful one, the checks are, state interference apart, in the main utilitarian, religious, and moral. But their joint force is not always sufficient to overcome the temptation to do it; and in exceptional instances, religion and morality, instead of promoting obedience to the law of the land, supply the very impulses to actions which the state looks upon as dangerous. It is, however, generally possible, by placing a sufficient extra-weight into the scale which contains the inhibitory motives, to cause the balance to incline to the side of law and order. And this result the state attempts to bring about by adding to the restraints which operate spontaneously and independently of its intervention, and which may be called natural restraints, an artificial one of its own creation, the threat of an evil of sufficient magnitude to be inflicted by the state upon the actor if he breaks the command of the law. The desire to avoid suffering it will enter into the conflict of motives, and will in many instances prove the determining factor: in many instances, but by no means always. Offences have been committed in spite of the most cruel torments which the devilish ingenuity of barbarous ages could suggest. Far less can we hope that the criminal impulse will always be suppressed by even the harshest forms of punishment which our humanitarian era will tolerate. In modern law "the highest penalty depends for its efficacy upon the love of life; and there are many circumstances under which a man may cease to care for life, and so far be beyond the power of the legislator." The greatest measure of success would be attained if it were possible for the state to contrive a mechanism by means of which every crime would automatically bring about the infliction of the punishment provided for it. A penal sanction might then be likened to a Damoklean sword hung over the head of every intending transgressor of the penal code and

always ready to descend upon him as soon as by his own act he severs the single horse-hair by which it is suspended. But since the Watt of statecraft has not yet arisen to design the required machinery, the politician and the legislator have to be content with an approximation to the ideal by adopting the practical maxims which it suggests.

First of all, punishment must *ex vi termini* be an evil, and it must be an evil of sufficient magnitude, or it ceases to be deterrent. A sanction disproportionately light is, as Hobbes remarks, "rather the price or redemption than the punishment of a crime," and will encourage criminals to imitate the example of the Roman madman, mentioned by Montesquieu, who spent his time boxing the ears of casual passers-by, while a slave who followed him had instructions to hand to each of his victims twenty-five coppers, the statutory penalty for such offence. Besides, a sanction inadequate to prevent crime means so much gratuitous suffering; as it fails of its object, the pain which it occasions is simply wasted. And inasmuch as it has to be actually inflicted in a larger number of instances, the sum total of human agony of which it is productive, may well be a good deal larger than it would have been in the case of a harsher and therefore more effective punishment. The amount of suffering which constitutes a sufficient menace has to be determined in relation to the physical and moral susceptibilities of that section of the community in the midst of which crime is liable to be prevalent. At this point we are confronted with one of the most serious obstacles to the success of punishment as a preventive of crime. For the choice of sanctions rests in the first instance with the legislative bodies and in the last resort, at any rate in democratic states, with public opinion; and the men who compose the former and lead the latter cannot help being guided by their own feelings in judging of the effects which the threat of different punishments will produce in the minds of those to whom it is chiefly addressed. Yet the chances are that the anticipation of an evil which would drive to despair, and possibly to self-destruction, men endowed, as the leaders of the community generally are, with a vivid imagination and a sensitive nature, might not cause a single sleepless night to people of that coarser fibre of which criminals are made. Deprivation of freedom strikes the self-respecting citizen as a calamity of the highest order; but the appalling proportion which persons previously convicted bear to the prison population as a whole, proves that the



conditions of life in confinement do not compare so very unfavourably, in the opinion of those best fitted to judge, with those under which the strata of society from which the majority of criminals is recruited, generally labour when at large.

Whilst, then, sanctions are worse than useless unless they are of sufficient intensity to act as checks on crime, they ought not to be more than sufficient for the purpose. The true function of punishments assigns the limits of their severity. If the state can attain its end, the prevention of offences, by a mild penal system, there is no justification for a savage code. For punishment means pain, and humanity forbids us to inflict unnecessary pain on any sentient creature. Utilitarian considerations lend further strength to this ethical postulate. Montesquieu says: "*L'atrocité des lois en empêche l'exécution. Lorsque la peine est sans mesure, on est souvent obligé de lui préférer l'impunité.*" The truth of this statement is most strikingly illustrated by the course of events where the penal legislation of a barbarous age survives into, and has to be administered by, a milder-mannered generation. Where such is the state of the law, the victims will suffer a great deal in silence at the hands of the criminal classes rather than come forward, as prosecutors, to set the law in motion; witnesses cannot be got to attend the trial; and miscarriages of justice will be matters of daily occurrence since the attention of juries will be unconsciously diverted from the consideration of the evidence and will be directed to the consequences of an adverse decision. Thus, till the reign of William IV, larceny of certain goods in process of manufacture was, in English law, a capital felony. For many years it had been impossible to obtain a conviction on an indictment for this crime, however clearly the evidence might have established the guilt of the accused, till, at last, the manufacturers for whose protection the extreme penalty had been annexed to the offence, in order to obtain effective, instead of nominal, protection, petitioned parliament to substitute a milder form of punishment. The legislator, then, in the choice of sanctions, has to reckon with the opinions, the sentiments, and even with the prejudices of his times, and the attempt to conform to them may land him on the horns of a dilemma. Punishments sufficiently harsh to deter may prove ineffective, because they enlist the sentiments of the community against, instead of in favour of, the laws of the land and may lead to dangerous criminals being let loose on



society by unjust verdicts of acquittal; whilst punishments which the spirit of the age will admit of, may fail to make an impression upon the criminal classes. Even those who minimize the value of punishment as a check on crime, generally make an exception in favour of capital sentences and own that the fear of death, though of nothing less than death, will cause many a prospective offender to desist from the execution of his criminal design. But a sickly sentimentality of the public has led, in more than one country, to the abolition of capital punishment, though it forms the most reliable, and in my opinion a necessary, means of safeguarding the life of the subject. Again, the progressive alleviation of the convict's lot by modern prison reforms has deprived our chief penal instrument of much of its terrors and is, probably, the factor mainly responsible for the measure of truth which there is in the claim that our penal law is but an indifferent weapon in the battle against crime. To steer a safe course between the Scylla of public opinion and the Charybdis of the criminal mind is, indeed, one of the most difficult tasks which the modern statesman has to accomplish, and practical experience alone can teach how to adjust penal sanctions in so delicate a fashion that, without violating the one, they operate upon the other.

The deterrent effect of the criminal law depends, however, not solely upon its rigour, but largely upon the accuracy with which it is administered. Paley goes so far as to assert that "the certainty of punishment is of more consequence than the severity." At any rate, a person who contemplates the commission of an offence takes into account not only the actual punishment with which it is visited, but also the chances of escaping punishment altogether. Indeed, criminals are only too apt to flatter themselves that the arm of the law will not be long enough to reach them. Now "even a small uncertainty takes away from the pain which we fear, whereas even a great uncertainty does not destroy the attraction of a pleasure which we are hoping for" (Ferri). In a somewhat different fashion do the prospects of discovery or concealment enter into the psychology of the professional criminal. He reckons with, and accepts, the possibility of punishment as a risk incident to his trade, and will thereby be deterred from crime no more effectively than the miner is deterred from working in the coal-pit by the knowledge that he may be killed by fire-damp. The professional criminal calculates the chances of being caught be-

fore deciding whether it is worth his while to undertake a certain job. The greater the risk the less will a career of crime pay. Change the risk into a certainty and you create conditions under which his business cannot possibly be carried on. But whatever the type of criminal upon whose mind the sanction is to operate, its efficacy appears to be the function of two variables, its severity and the probability of its actual infliction. If we imagine the offences dealt with in the criminal code to be symbolized by one ideal or average crime, the criminal classes as represented by one typical criminal, and if we understand by marginal deterrent force the strength of the motive just, and only just, sufficient to deter the typical criminal from the ideal crime, we may express the relationship spoken of above by the following algebraic formula:  $d = s \cdot c$ , where  $d$  stands for the marginal deterrent force of punishment,  $s$  for its severity, and  $c$  for the chance of its infliction. We see, then, that the more certain the state can be of bringing offenders to book, the more lenient it may be in the construction of its criminal code without loss in security to its subjects. And since the risks which the criminal runs depend on the chances that he (1) will be caught, and (2) will be condemned if caught, it becomes apparent that a well-organized and vigilant police, a public opinion strongly on the side of law and order, a good and clear criminal code, a simple procedure free from technical intricacies which offer so many loopholes to the guilty, and an efficient and incorruptible judicial bench will allow of a considerable mitigation of the penal system without increase of crime. The uncertainty of punishments, on the other hand, must be compensated by their greater severity.

The efficacy of punishment as a deterrent depends, in the next place, upon the promptitude with which it follows the offence. Crimes are usually committed for the sake of a pleasure close at hand, for the immediate satisfaction of a desire both keen and urgent; and fear of an evil which lies in the remote future cannot, then, be relied upon as a check. For, by a well-known law of perspective which applies to mental as well as to ocular vision, the more distant an object is the smaller it appears. Besides, futurity suggests contingency, and however illusive the association of these two ideas often proves to be, it influences conduct none the less powerfully for that. Hence a procedure which ensures that an offender is rapidly brought to trial and that the judgment is promptly carried into execution, greatly enhances

the terror which the criminal law inspires. In this respect this country is far ahead of other states, owing mainly to the Habeas Corpus Act, which, though passed in the interests of accused persons, has rendered impossible in England those long delays of the law which detract so materially from the deterrent force of continental codes.

We have now evolved from the theory of psychological constraint the supreme penological principles which govern the choice of penal sanctions and the determination of the level of punishments in genere, that is to say, the harshness or leniency of the criminal code as a whole. But we have not deduced therefrom, as some authorities of repute have done, the scale of punishments applicable to particular offences. We do not subscribe to Bentham's "rule of moral arithmetic," according to which the severity of the sanction must vary with the strength of the motive which usually prompts the commission of a certain type of offence. Nor can we agree with Paley if he teaches that the facility with which any species of crimes is perpetrated and the difficulty of discovery are among the chief factors in the standardization of punishments. Graduation of punishments in accordance with these rules would result in a code running counter to public opinion and could never fulfil the purpose for which it were adopted. For criminals, not being, as a rule, trained lawyers, are not acquainted with the minute provisions of penal statutes and could not, therefore, be influenced by a scale of sanctions elaborated on highly technical principles. What they do expect and fear are such punishments as correspond with popular notions as to the relative gravity of different offences. If the essence of crime and its distinguishing mark from a mere civil wrong lies in the fact that it violates those interests, individual or collective, which society regards as vital, and if the true function of punishment is to protect the community from such violations, the gravity of the offence from the state's point of view, i.e. the degree in which it endangers public order, can alone supply the standard of penal sanctions. This was the opinion of Beccaria, who says: "Crimes are only to be measured by the hurt done to society." And it is the view adopted, as we have seen, by Feuerbach. Now it is quite possible that, in the case of minor offences, a punishment which appears appropriate if measured by the standard just laid down may prove an evil too insignificant to suppress them. Yet the state will not be justified, except within ill-defined but fairly narrow limits, to



increase its severity so as to render the threat completely effective. For considering the smallness of the mischief, the price necessary to be paid for its prevention would be too dear. The legislator has here to choose between two evils, and even a comparatively frequent occurrence of trivial transgressions may well appear the lesser one. When, on the other hand, the rights to be protected are so fundamental that their enjoyment must at all costs be secured, we must not complain of the means, however painful, by which alone that object can be accomplished. The existence and the security of established government and the protection of human life are the two objects which, according to modern notions, deserve to be safeguarded at all risks, and herein lies the justification of capital punishment for treason and murder. It might be objected that the measure of punishment which we advocate, cannot be applied in practice since the degree in which acts falling under the same category of crimes endanger public safety, varies within very wide limits. The least touching of another in anger, spitting at a man's face, throwing a bottle at him, cutting a pauper's hair against his will, giving a woman a black eye, dealing an opponent a blow which knocks him down or sends him reeling—all these misdeeds fall, in English law, under the definition of assault. Again, larceny is committed by the hungry wretch who steals a loaf of bread from a baker's shop, no less than by the professional criminal who takes a situation in order to empty his master's plate-chest. But this criticism does not hold good since modern codes make due allowance for these possible variations by not prescribing a stereotyped punishment for a given class of crimes, but only fixing the maximum and the minimum; and English law shows even superior wisdom in having done away, long since, with minimum punishments altogether, with the result that it has become possible to award a merely nominal punishment where the offence is of a purely technical character. But what is it that makes the same offence a merely technical breach in the one instance, a heinous crime in another? It is the character of the offender, as expressed in the act. And this is the principle upon which judicial sentences are measured out within the latitude allowed by the code. *Si duo faciunt idem, non est idem*; the difference lies in their desires and passions, in their dispositions and habits, and it is a consideration of these which guides the judge in the exercise of his discretion if, in the case of two offenders charged with the same crime,



he passes a severer sentence upon him whom he judges to be the more serious menace to society. We see, then, that the dangerousness of the act, from the social point of view, "the objective danger," as it may be called, supplies the measure of the legal punishment, whilst the dangerousness of the actor, "the subjective danger," determines the judicial sentence. This distinction seems to underlie the maxim of English criminal jurisprudence that the criminal motive is irrelevant on the issue "guilty?" or "not guilty?"—but an important factor which has to be taken into account in awarding punishment. For the motive cannot alter the character of the act, but it supplies the key to the character of the actor. It is because sanctions are fixed and punishments dispensed according to the rule just explained that criminal legislation and criminal jurisdiction generally conform to and satisfy public opinion. In the popular mind the gravity of an offence is determined by the alarm which it spreads, i.e. by the degree in which it is felt by society to endanger its peace and security; and where the moral and intellectual levels of the rulers and of the ruled do not materially differ, the popular and the official index to the measure of punishment cannot but practically coincide.

Crimes, we have found, are in their essence acts which menace, or are believed to menace, the existence of the state, the peace of society or the fundamental rights of the individual, and the function of punishment is to prevent their commission. Penal sanctions have been found by experience to be powerful instruments for shaping men's conduct; but there is nothing in them to limit their application to acts falling within the above definition of crime. Indeed, rulers have discovered at an early date how easily they can be utilized for the purpose of enforcing obedience to rules which they were anxious, for one reason or another, to impose upon their subjects. Modern democracies, likewise, have only too well learnt this lesson, and more than one instance has occurred where the public has clamoured for the annexation of penal sanctions to legislative measures intended to carry into effect some popular scheme of social or economic reform. In one way and another, a certain amount of heterogeneous matter has thus been introduced into the penal law of every state. And so it has come about that analytical jurists were at a loss to find any generic character whereby to recognize a crime, until at last in despair they advanced the doctrine that the difference between crime

and civil wrong is merely a difference in procedure, though in formulating this view they run counter to popular feeling which obstinately clings to the association of crime and public alarm. When once this artificial conception of crime had been adopted, the true object of punishment could not fail to be obscured. The truth is that the extension of penal sanctions beyond their legitimate sphere forces us to distinguish between a material and a formal criminal law. The domain of the latter has, it is true, to be defined by reference to the remedies alone by which it is enforced; for it comprises all the rules the transgression of which is visited with punishment. Material criminal law, on the other hand, deals only with those acts criminally sanctioned which fall under the definition of crime which we have given. It is only by concentrating our attention upon criminal law in the latter sense and by adhering to the conception of crime as implying a disturbance of public order, that a clear insight into the true rationale of punishment can be gained.

The function of punishment does not, however, exhaust itself in muzzling wild beasts, to use Schopenhauer's metaphor. It exercises in no mean degree a moralizing influence upon the community at large. Let the legislator penalize a line of conduct to which current morality is but slightly averse, wholly indifferent, or even somewhat favourably inclined, and the immediate result will be that the vast majority of the citizens will refrain from the prohibited act, partly because they desire to avoid the sanction, but partly because in a well-ordered community obedience to the commands of a lawfully constituted authority is recognized as a binding duty. Conduct conforming to the dictate of the law thus becomes habitual, and, habitual conduct reacting on opinion, a moral aversion to the opposite conduct may gradually grow up; in other words, what was originally only a legal duty, gradually acquires the obligatory force of custom too. Besides, the forbidden act being constantly visited with punishment by the state, the feelings of repugnance which the mental picture of the gallows or of the broad arrows inspires, are communicated, by a ready association, to the deed which brings those horrors in its trail; and that which is in the first instance a source of evil rapidly comes to be looked upon as an evil, and finally as evil. In both these ways a *malum quia prohibitum* is converted into a *malum per se*, into a moral wrong. The legislator, then, has it in his power, by branding certain acts as

crimes, to modify, in the course of a few generations, the moral sentiments of the community, and it may safely be asserted that in the past the penal code has been one of the most valuable instruments in the moral education of the human race. We have here a partial explanation of the reason why, though crime is a creature of the law, and nothing else, public opinion generally endorses the dispensations of the criminal courts. The fixed associations gradually formed, as we have seen, in the minds of the whole population are one of the roots of that sense of justice which imperatively demands the punishment of crime. Upon the lower strata of society into the dark recesses of which the ethical spirit of the age penetrates with difficulty, the operation of the criminal law, as an engine of moral discipline, is even more direct; there are probably thousands, as Mr. Rashdall remarks, who have scarcely any moral notions except those rudimentary ideas of right and wrong which are inculcated at assizes and petty sessions.

The conclusion at which we arrive, then, is that though punishment cannot be regarded as a panacea for crime, it is a valuable means of social hygiene in the struggle against that disease of the body politic. Such efficacy as it possesses, flows, in the main, from its character as an agent of prevention; and it discharges the functions of this office in two different ways: by appealing to the fears of persons likely to commit crimes and by operating upon the habitual sentiments of the citizens in general.

## CHAPTER XXXIV

### PROBLEMS OF LAW ENFORCEMENT AND CRIMINAL PROCEDURE

#### 118. DELAYS AND DEFECTS IN THE ENFORCEMENT OF LAW IN THIS COUNTRY<sup>1</sup>

When we come to the administration of criminal law and the assertion of public right, which have a more direct bearing upon the welfare of the whole people than the settlement of private rights, the injurious delays caused by the procedure provided by legislative act are greatly accentuated. No one can examine the statistics of crime in this country and consider the relatively small number of prosecutions which have been successful, without realizing that the administration of the criminal law is a disgrace to our civilization. Some of the causes for the lax administration of the criminal law may be found in the lenient, happy-go-lucky character of the American people, absorbed in their own affairs and not fully realizing that this tremendous evil exists in the community.

In criminal cases the jury system is essential to secure the rights of the individual against possible abuses by the government ; but it necessarily causes delay. The grand-jury system enforced by the federal Constitution, although not required in many of the states, is another cause of delay in bringing criminals to justice. Fully conceding the necessity of these constitutional restrictions as essential under our form of government to the preservation of the liberty of the individual, we still find a large field in which the legislature, by formulating proper and expeditious criminal procedure, could avoid the discouraging and disgraceful delays that now exist, when the criminal has the means to employ acute lawyers who take advantage of every technical necessity presented by the rules obtaining in the trial of criminal causes. Every

<sup>1</sup> By William H. Taft, Chief Justice of the Supreme Court of the United States. An address delivered before the Civic Forum, New York City, at Carnegie Hall, April 28, 1908.



month of delay in bringing a person charged with crime to justice inures, in his ultimate trial, to his benefit. In order to resist the amiable tendency of human nature toward mercy and compassion for the unfortunate charged with crime, a jury must be strongly imbued with the right of the public to have crime punished, and the further backward into the past the facts upon which the prosecution is based are pursued, the less strongly does the jury feel its obligation to the public at large to restrain future crime by the punishment of offenses committed in the distant past.

Again, the procedure provided by legislative enactment for the trial of the crime itself too frequently affords the opportunity to prolong the trial, and exaggerates into undue prominence circumstances having no direct bearing upon the innocence or guilt of the defendant, but calculated to divert the minds of the jury from the real issues, and ultimately to lead to a disagreement or to an acquittal of a really guilty man. Of course such a result could hardly be obtained except by the employment of skilled counsel of dramatic power, able to confuse the minds of the jury, to destroy their sense of proportion, and to make them reach conclusions as jurymen which, as men in their own business, they would repudiate as absurd. The creation of an atmosphere of fog and error and confusion is only possible under a system in which the power of the court to control its own proceedings and to guide the jury to some extent in the way in which it should go, is so limited by rules of judicial procedure laid down by legislative enactment that the judge becomes nothing but a moderator of the proceedings and helpless in the hands of an acute and eloquent counsel for the defense. The theory of legislatures in this country and, indeed, the popular view, seems to be that it somehow works for the benefit of the public that the power of the judge in the courtroom should be greatly reduced and the power of the jury greatly magnified; and we discover the tendency to this view more and more as we go toward the western and the newer states. The fact is, however, that every expedient which weakens the power of the court and increases the power of the jury has an effect wholly different from that which is intended, and increases the advantage enjoyed by the wealthy when brought before the bar of a criminal court.

We have, as is well understood, certain constitutional restrictions as to the procedure in criminal cases, which offer protection to the

accused and present difficulties in the proof of his guilt. But these obtain as well in the English courts as in our own, and their existence does not offer a reason for the delays from which we suffer, for such delays do not exist in the administration of justice in England. A murder case which in this country is permitted to drag itself out for three weeks or a month, in England is disposed of in a day, two days, or, at the most, three days,—certainly in less than one fifth the time. This is because the English judges insist upon expedition by counsel, cut short useless cross-examinations, and confine the evidence to the nub of the case. They exercise the greater power, which, under the common-law rule, has always been exercised by the court. Under such practice it would be possible for the prosecuting attorneys to clear their dockets; as it is now they are utterly unable to do so.

At the present time, in our larger cities, a man who is indicted and has means with which to secure bail is released on bond, unless he is confined for murder in the first degree. The pressure upon the prosecuting officers is for the trial of those who are in jail and unable to give bail, and as a result of the delays I have mentioned, jail cases are protracted and the trial of those who are released on bail is postponed oftentimes to the indefinite future, the evidence disappears, newer and more sensational cases come on, and ultimately nollees are entered and the indicted man escapes. This is one explanation why so many crimes go wholly unpunished.

Another cause of the inefficiency in the administration of the criminal law is the difficulty of securing jurors properly sensible of the duty which they are summoned to perform. In the extreme tenderness which the state legislatures exhibit towards persons accused as criminals, and especially as murderers, they allow peremptory challenges to the defendant far in excess of those allowed to the prosecution. In my own state of Ohio, for a long time, in capital cases, the law allowed the prosecution two peremptory challenges and the defendant twenty-three. This very great discrimination between the two sides of the case enabled the defendant's counsel to eliminate from the panel every man of force and character, and to assemble a collection in the jury box of nondescripts of no character, who were amenable to every breeze of emotion, however maudlin or irrelevant to the issue.

I do not think that the members of the bar can escape the responsibility for the demoralizing tendencies to which I have referred. The

perversions of justice in my own city of Cincinnati in 1884 led to the appointment of a committee of the bar to visit the legislature, to urge it to rid our criminal code of procedure of those features which placed the prosecution at an unfair disadvantage in the trial of capital cases. The indignation of the public at some of the failures of justice in flagrant cases of crime had led to a riot and to the burning of our courthouse, and the public finally became aroused to the serious defects in the law. I had the honor of being one of those who waited upon the Judiciary Committee of the Ohio legislature and preferred the request that the twenty-three challenges allowed to the defendant be reduced to twelve, and that the state be allowed a similar number; but we found that there were upon that committee lawyers a substantial part of whose practice consisted in acting as counsel for defendants in criminal trials. When I protested that twenty-three challenges was an outrageous number, the chairman of the committee leaned back with the remark, "Many a time I would have given all my fee to have had twenty-four challenges for the defendant." I cite this instance because I believe that the unjust disposition to curtail the power of judges is due more or less to the intervention of some members of the bar whose practice is more or less beneficially affected, as they conceive, by obstacles thus created to the due course of justice.

Another reason for delays in the enforcement of criminal law is to be found in the right of repeated appeals which are given in criminal cases. The code of evidence, with its complicated rules and numerous technical statutory limitations designed to favor the defendant, are all used as a trap to catch the trial court in error, however technical, upon which, in appellate proceedings, a reversal of the judgment of the court below may be obtained. The rule which generally obtains in this country is, that any error, however slight, must lead to a reversal of the judgment, unless it can be shown affirmatively that it did not prejudice the defendant. The disposition on the part of the courts to think that every provision of every rule of the criminal law is one to be strictly construed in favor of the defendant, and even widened in its effect in the interest of the liberty of the citizen, has led courts of appeal to a degree of refinement in upholding technicalities in favor of defendants, and in reversing convictions, that renders one who has had practical knowledge of the trial of criminal cases most impatient.



In a case carried on error to the Supreme Court of the United States the point was raised for the first time in that court that the record did not show an arraignment of the defendant and a plea of not guilty; and on this ground the court, three judges dissenting, reversed the judgment. There was not a well-founded doubt of the fact that the defendant was arraigned and pleaded not guilty. The record itself raised a presumption that this was the fact; but the judgment was reversed, although there was not a pretense that the defendant had suffered any injury at the trial by reason of the alleged defect in the procedure. When a court of highest authority in this country thus interposes a bare technicality between a defendant and his just conviction, it may be pertinent to inquire whether some of the laxity in our administration of the criminal law may not be due to a proneness on the part of courts of last resort to reverse judgments of conviction for narrowly technical error. There ought to be introduced into the statutes of every state and of the United States, in regard to appeals in criminal cases,—and, indeed, in regard to appeals in civil cases,—a provision that no judgment of a trial court should be reversed except for an error which the court, after reading the entire record, can affirmatively say would have led to a different verdict and judgment. This would do no injustice and would end reversals for technicalities.

And, now, what has been the result of the lax administration of criminal law in this country? Criminal statistics are exceedingly difficult to obtain. The number of homicides, the number of lynchings, and the number of executions one can note from the daily newspapers, but the number of indictments, trials, convictions, acquittals, or mistrials it is hard to find. Since 1885 in the United States there have been 131,951 murders and homicides, and there have been 2286 executions. In 1885 the number of murders was 1808. In 1904 it had increased to 8482. The number of executions in 1885 was 108. In 1904 it was 116. This increase in the number of murders and homicides as compared with the number of executions tells a startling story. As murder is on the increase, so are all offenses of the felony class, and there can be no doubt that they will continue to increase unless the criminal laws are enforced with more certainty, more uniformity, and more severity than they are at present.

The strongest force in our community is public opinion, and frequently the existence of evils in the community is due to the fact that



it is not sufficiently directed to the evil in hand. The enormous discrepancy between the crimes which are committed and the crimes which are actually brought to trial is sufficient to show that public opinion is not alert enough, and is not directed against prosecuting officers and judicial officers with sufficient vigor to bring to trial every man guilty of an offense. In recent years we have been engaged in the trial of wealthy men and corporations charged with violating the antitrust laws and the antirebate laws, or laws against railway-rate discrimination. In these trials there has been brought home to the public the difficulty of securing the conviction of wealthy defendants, who employ acute counsel to take advantage of all the technicalities and delays which the present criminal procedure makes possible. And it is quite possible that the escape of wealthy malefactors from just punishment will bring home to the people at large the conviction which ought to obtain, that by the tenderness toward the individual charged with crime manifested by legislatures and lawmakers during the last fifty years in this country, great injustice has been caused to the interests of the public, and that the time has come to call a halt.

### 119. CRIMINAL RESPONSIBILITY<sup>1</sup>

It is the theory of some philanthropists and insanity experts that a criminal offence is always a symptom of mental disease. According to their theory only the innocent could ever be punished. If a man robs or kills, the fault is not his; he is the victim of an hereditary taint or of his unfortunate environment, to be pitied, but not to be blamed or punished. Such ultra-pacifistic condonation of all crime unfortunately prejudices many practical persons against much needed reforms, such as the discriminating use of psychological tests of mental deficiency to guide our dealings with delinquents, young and old.

In nearly every capital charge when other defences appear hopeless, insanity is put forward as a last resort. The apprehension of abuse and fabrication of the plea of insanity, like that of drunkenness, reacts on the law to make it restrict the defence where theoretical justice would demand it. A majority of jurisdictions thus refuse to recognize

<sup>1</sup>By Henry W. Ballantine, LL.B., Professor of Law in the University of Minnesota. Adapted from "Criminal Responsibility of the Insane and Feeble Minded," *Journal of the American Institute of Criminal Law and Criminology*, Vol. IX, pp. 485-499.

uncontrollable impulse as a defence, unless the defendant was unable to distinguish right from wrong.<sup>1</sup> In 1911 a committee of the New York Bar Association recommended the statutory abolition of the defence of insanity, and drafted a proposal that insanity at the time of the act, regardless of the condition at the time of the trial, should be ground for confinement in an asylum for the criminal insane for a definite period.<sup>2</sup>

In the State of Washington in 1909 a statute was enacted, that it should be no defence in criminal cases that the defendant was unable by reason of his insanity, idiocy, or imbecility to comprehend the nature and quality of the act committed, or to understand that it was wrong or that he was afflicted with a morbid propensity to commit the act. This statute was held unconstitutional, because it takes from the jury the question of criminal intent, thereby violating the "due process" and trial by jury clauses, on the question of whether the mental element required by law was present.<sup>3</sup>

By the Trial of Lunatics Act (1883) in England, if at the trial for any offence, the evidence indicates that the defendant was insane, the jury must find specially that he was guilty of the offence charged, but was insane at such time. If they so find, the court is to order him kept in custody as a criminal lunatic until further order. The Act abolishes the verdict of acquittal on the ground of insanity and substitutes a special verdict. This prevents the plea of insanity from being set up upon any but capital charges.

In spite of the disrepute of insanity pleas and insanity experts, it is likely that there are many more insane, defective, and irresponsible persons who are unjustly convicted of crime than there are guilty persons who succeed in escaping by pretended insanity. It requires a good actor to feign insanity, whereas there are common varieties of mental disease which may escape ordinary observation.

It is generally recognized that mere mental weakness or disorder, feeble mindedness, degeneracy, moral depravity, or even insanity, do not exempt from punishment where there is capacity to know that the

<sup>1</sup> *Smith v. Mississippi*, 95 Miss. 786, 49 So. 945, 27 L.R.A. (N.S.) 1461 n.; Ann. Cas. 1912 A, 36 n. Compare *Hankins v. State*, L.R.A. 1918 D, 794 n.

<sup>2</sup> *New York State Bar Association Reports*, Vol. XXXIII, p. 401; Vol. XXXIV, pp. 274, 278. 2 *Jour. Crim. Law and Criminology*, p. 531.

<sup>3</sup> *Strasburg v. State* (1910), 60 Wash. 106, 110 Pac. 1020, 32 L.R.A. (N.S.) 1216. 2 *Jour. Crim. Law*, pp. 521, 529.

act is wrong.<sup>1</sup> The tests of criminal responsibility generally adopted in this country are (1) the right and wrong test (*a*) in the abstract, (*b*) as regards the particular act, and (*c*) as regards moral or legal wrong; and (2) the irresistible impulse test. The Supreme Court of New Hampshire denies the utility of any specific legal test, and leaves it to the jury as a question of fact whether the crime was the product of mental disease.<sup>2</sup> Another test which has been suggested is capacity to conceive the specific intent which constitutes one of the elements of the particular crime.<sup>3</sup> Delusion is not recognized by English or American courts as a special test, but is simply one form of aberration which destroys knowledge of right and wrong or creates mistakes of fact.

The right and wrong test may be applied in such a way as to convict almost any one except a total idiot or a raving maniac, or in such a way as "to allow very considerable fish of the malefactor species to escape from the judicial net."<sup>4</sup> Juries exercise the actual, albeit unauthorized, power to mitigate the rigors of the law by refusing to convict and by dealing with cases according to what they feel to be right and just. It is desirable, however, for the law to formulate intelligently what it is driving at.

Is the knowledge of the right and wrong test a safe and satisfactory working rule? According to the leading authority, *McNaghten's case*,<sup>5</sup> the main test is: Did the accused at the time, know that he was doing wrong? If not, he cannot be convicted. How can this be directly proved to the jury? Dr. H. Oppenheimer suggests the following:<sup>6</sup>

Whilst the most definite proof should be required of the existence of mental disease, when once it has been established that the prisoner is a lunatic, the present presumption of law should be reversed; and those proved to be of unsound mind should be assumed until the contrary be shown, not to know the nature and quality of their acts and that that which they were doing was wrong.

<sup>1</sup> 16 Corpus Juris, 99; *Rogers v. State*, 128 Ga. 67, 10 L.R.A. (N.S.) 999 n.; *People v. Spencer*, 264 Ill. 124; *Commonwealth v. Wireback*, 190 Pa. 138, 42 Atl. 542.

<sup>2</sup> *State v. Jones*, 50 N.H. 369, 9 Am. Rep. 242.

<sup>3</sup> Bishop, *Criminal Law*, sect. 381; *State v. Peel*, 23 Mont. 358, 75 A.S.R. 529; Keedy, 30 *Harv. Law Rev.* 585.

<sup>4</sup> F. W. Griffin, "Insanity as a Defence," *Journ. Crim. Law & Crim.*, Vol. II, No. 2 (July, 1910), p. 18.

<sup>5</sup> 4 St. Tr. (N.S.) 847; 10 Clark & Fin., p. 200; Beale's Cases Cr. Law, p. 326.

<sup>6</sup> *The Criminal Responsibility of Lunatics*, p. 253.

Thus it need not be positively proved that defendant was not able to distinguish right from wrong, or that his ignorance extended to the very act of which he is accused. If the evidence exhibits morbid impulses; if the will is weakened; if the intelligence is of low grade; if there are delusions, obsessions, or other symptoms of mental disease, this evidence may raise a presumption of such disturbance of the mental and volitional faculties as to exclude intelligent choice of conduct.

According to one of the rules of *McNaghten's case*, if the accused is subject to partial insane delusions, or monomania, he is to be treated as if his delusions were true. Thus if A kills B, the result is: (1) if A did not know that he was doing wrong, he cannot be held accountable; (2) if A thought that B was about to do him grievous bodily harm, A is not guilty, for assuming the delusion to be true; A is simply acting in self-defence; but (3) if A knew he were doing wrong, or (4) if A acted under some delusion which, if true, would not have justified his act, e.g., that B had been intimate with A's wife; in both these cases A would be guilty of murder.<sup>1</sup> The delusion would, however, be available as evidence that A did not know that he was doing wrong, even if its truth would not create such mistake of fact as to justify the act.

If A kills B knowing that he is killing B, and knowing that it is illegal to kill B, but under the insane delusion that the salvation of the country or of the human race will be obtained by getting himself executed for the murder of B, and that God has commanded him to get himself sacrificed in this way, his action under this delusion will not be punishable, if knowledge of right and wrong refers to moral wrong rather than to conscious illegality. Our analysis shows that moral wrong is the test which should be adopted and this has been so held in New York.<sup>2</sup> Thus one acting under the insane delusion that God has appeared to him and ordered the commission of a crime by him, is not guilty, although he knows his act to be contrary to law, because he is incapable of understanding the wickedness of his deed and is not morally responsible.

*McNaghten's case*, however, seems to hold that in the case of partial delusions or monomania, guilt should be made to depend on whether

<sup>1</sup> Thwaite, *Guide to Crim. Law & Proced.*, 9th ed., p. 20.

<sup>2</sup> *People v. Schmidt* (1915), 216 N.Y. 324, 110 N.E. 845, L.R.A. 1916 D, 519, 527.



the delusion was such, that if things were as he imagined them to be, he would be legally justified in the act.\* This idea has been much criticized on the ground that there is no such thing as partial insanity, and that one cannot be affected with insane delusions on one or more particular subjects without affecting the entire mind. If one screw is loose, the whole machine is affected. Accordingly the Supreme Court of Colorado has held that hallucinations, delusions, and paranoia may relieve from responsibility, not only when the imaginary facts, if true, would excuse, but also, even if the supposed grievances or wrongs would not legally justify the act. The existence and nature of the delusion, is not the test of responsibility, but is evidence on the question whether the mind is so impaired, unbalanced, and beclouded that the defendant is not a responsible moral agent. If the defendant is laboring under delusion that he is redressing or avenging some supposed injury, or producing some supposed public benefit, the fact that he knew at the time that he was acting contrary to law should not necessarily make him accountable.<sup>1</sup>

If A suddenly stabs B under the influence of impulse, caused by disease of such a nature that nothing but mechanical restraint would have prevented the stab, A is not punishable if absence of power of control is recognized as a defence, but would be punishable if a strong motive, such as fear of punishment, might have prevented the act. Only those ought to be punished, whom the threat of the law could or might have deterred from the act.<sup>2</sup> According to the theory of moral responsibility, both the right and wrong test, and the irresistible impulse test ought to be recognized. If free will and self-restraint be destroyed by mental disease, knowledge of right and wrong is entirely useless. Will is as necessary an element of criminal intent as are reason and judgment.<sup>3</sup> Nevertheless, in many jurisdictions uncontrollable impulse is not a defence unless the defendant was also unable to distinguish right from wrong.<sup>4</sup> Where a man's acts are automatic and mechanical, the explosive discharge of motor centers which the patient

<sup>1</sup> *Ryan v. The People*, 60 Colo. 425, L.R.A. 1917 F, 646; *Hotema v. United States*, 186 U.S. 413.

<sup>2</sup> *Oppenheimer, Criminal Responsibility of Lunatics*, p. 129.

<sup>3</sup> *Parsons v. State*, 81 Ala. 577, 596, 2 So. 854, 60 Am. Rep. 193. See also *Hawkins v. State*, L.R.A. 1918 D, 784, 794 n. Keedy, 30 *Harv. Law. Rev.* 546.

<sup>4</sup> *Smith v. State*, Ann. Cas. 1912 A, 36 n.

is helpless to prevent, the established legal test of right and wrong cannot be strictly applied without injustice. The controlling influence of the inhibitory centers is for the time being suspended, and the acts may be the mechanical reflex movements from internal or external suggestion. The defendant is not their author, but their victim.<sup>1</sup>

The recognition of the principle that punishment should be in proportion to the gravity of the crime and the culpability of the criminal, indicates the basis of qualified responsibility as resting on the degree of guilt of the partly responsible persons. Feeble mindedness, for example, might well be admitted as a ground for discretionary reduction of penalty, even if not a full defence. . . .

The defendant may have some sense of right and wrong, he may be aware that punishment will follow detection, but he may have far less appreciation of the consequences of his acts and less self-control than normal men or even children. Can we say that some knowledge of right and wrong and self-control, however poor and imperfect, is sufficient? Suppose they are less than in normal children of seven, ten, or fourteen years of age? Want of judgment, lack of will, and weakness of character make the feeble-minded and defective persons an easy prey to their passions and impulses. The law has failed to take sufficient account of the possibility of different degrees of accountability of those not altogether innocent. At present the jury fills up the gaps existing in the law of responsibility, and takes into consideration the moral elements and motives of crime. Those who as a result of hereditary taint and unfortunate environment are mentally and morally degenerate have not full penal accountability with normal men any more than little children, and if punishable at all, are punishable in a much less degree.<sup>2</sup>

It may be suggested in conclusion, that the main issue where the defence of insanity is raised, is whether the defendant is morally accountable for his act, and if so, to what degree? The inquiries to be submitted for the guidance of the jury in determining this question, should be in substance, these: (1) Was the defendant at the time of the commission of the act afflicted with a disease of the mind, or with

<sup>1</sup>Dr. Alfred Gordon, "Mental Deficiency," *Jour. Crim. Law*, Vol. IX, November, 1918, pp. 404, 410.

<sup>2</sup>*State v. Richards* (1873), 39 Conn. 591; Beale's Cases Cr. Law, p. 333; Arnold, *Psychology and Legal Evidence*, p. 503.

defect of intelligence, comparable to that of a child under (say) fourteen years? (2) Was the alleged criminal act so connected with such mental disease or defective intelligence as to be regarded as the offspring or product of it, either in whole or in part? (3) Is the defendant to be regarded as culpable or blameworthy, according to the two following tests: (a) Did he know that he was doing wrong, something that he ought not to do? (b) Had he so far lost the normal power of volition, that he was not able to avoid doing the act in question? (4) Were his intelligence and volition so far below normal, that although dimly conscious that his act was wrong, he was only partially accountable? Should his mental condition be considered in mitigation of punishment?

This represents a modification of the questions proposed in the case of *Parsons v. The State*,<sup>1</sup> and differs from the suggestion of the New Hampshire court in *State v. Jones*,<sup>2</sup> in inquiring into the moral quality of the act, and not merely whether it was the direct product of mental disorder, without regard to the degree to which the disease had progressed, or to the extent to which it had deprived him of the knowledge of right and wrong, or of the capacity for self-control. If the defendant has only subnormal capability for controlling his actions, he may still be regarded as punishable in some degree, in spite of a somewhat low order of intelligence or a somewhat unbalanced mentality, which may also warrant custodial care.

The more corrupt the defendant's heredity and the more defective his mentality, the less his moral blame and punishability, but from the social viewpoint, the greater is the necessity for sending him to a proper institution. Neither imprisonment nor probation and parole are suited to defective delinquents who cannot become normal citizens. It is accordingly urged . . . that farm and industrial colonies should be established so that dangerous morons, mental perverts, and other degenerates may be placed under lasting restraint and supervision according to their needs. The establishment of suitable institutions for the feeble minded, a half-way house between the penitentiary and the insane asylum, is a crying need in Illinois and in other states. In the alienist, the farm colony, and the asylum lie society's protection against abnormal persons rather than in the criminal law. Any one who by reason of feeble mindedness, insanity, or other disorder,

<sup>1</sup> 81 Ala. 577.

<sup>2</sup> 50 N.H. 369.

mental or physical, such as leprosy or syphilis, becomes a menace to the safety or health of the public, should be confined for purposes of quarantine and treatment. This should be done on custodial principles rather than on principles of the criminal law, which deals with definite acts of wrongdoing rather than with general conditions of potential menace.

## 120. TREATMENT OF PERSONS AWAITING COURT ACTION<sup>1</sup>

The prisoner usually has his first experience behind the bars in a jail, and that is the time of greatest opportunity for his reclamation. He has received a shock; he realizes for the first time the inevitable consequences of his reckless course. That is when the sheriff, the jailer, the doctor, the psychiatrist, the social worker, the religious teacher, and the prisoner's aid society should unite their wisdom and their efforts for his redemption. These propositions seem to the Committee self-evident, yet for fifty years past penologists and philanthropists have expended their efforts chiefly upon state convict prisons and felons convicted of high crimes and misdemeanors, and have almost unanimously neglected the prisoner awaiting trial and the short term prisoner.

*Accused persons to be treated as if innocent.* Under the Constitution and laws of the United States and of the several states, persons awaiting court action are either actually innocent or presumed to be innocent, for it is a well-established principle of American jurisprudence that every person accused of crime shall be deemed to be innocent until he is proved to be guilty. As a matter of fact, a large number of the persons awaiting court action are actually innocent of crime. In many cases their innocence is plainly proved in court and they are acquitted of the charges made against them. Among the innocent are included witnesses, who are held for the benefit of the community in order to insure their testimony in important cases; insane persons, who are simply sick persons and who ought to receive hospital treatment; and debtors of whom, notwithstanding the general prejudice against imprisonment for debt, a small number are still found in the jails of a number of our states.

<sup>1</sup>Adapted from the "Report of the Committee on Treatment of Persons Awaiting Court Action and Misdemeanant Prisoners," Hastings H. Hart, Chairman, *Proceedings of the Congress of the American Prison Association*, 1921.



The multitude of persons awaiting court action includes also a great number of children awaiting action of the juvenile court. Most of these children await their trial in their own homes or in special detention homes for children; nevertheless, a considerable number of children under sixteen years of age are still found in county jails, notwithstanding the fact that the laws of most of the states prohibit the confinement of such children in any prison or other place where adults are confined.

The principle that persons awaiting court action are to be treated as if they were innocent is by no means a legal fiction. It is taken very seriously in some of its aspects; for example, it is universally recognized by sheriffs and jail officers that persons awaiting trial cannot be compelled to labor. In the New York City jail, known as the Tombs Prison, six hundred or eight hundred prisoners awaiting trial are kept in idleness, and sixty or seventy prisoners are transferred to the Tombs Prison from the House of Correction to do the domestic work at the Tombs, while the prisoners awaiting trial are kept in demoralizing idleness, though a few prisoners awaiting trial are allowed to do domestic work by their own request.

The principle that persons awaiting court action are not to be regarded as criminals is demonstrated by the universal practice of releasing such prisoners, except those accused of very grave crimes, on bail, usually in a moderate sum not exceeding \$1000. This bail is furnished in the form of credit. A friend of the prisoner, or a bonding company, simply executes a bond agreeing to pay this sum in case the prisoner shall fail to appear when his case comes up for trial. When such a bond is given the prisoner goes at large and transacts his ordinary business until the time of his trial; but if he is unable to give bail he has to go to jail.

Commissioner Sanford Bates, of the Massachusetts Department of Correction, in reviewing this report writes:

As a practical matter I think it should be observed that the necessity for detaining persons in jail today is nothing like what it was when the jail system was inaugurated. The improved methods of identification, the practice of releasing respectable suspects on their own recognizance, has diminished the number of decent people who are obliged to stay in jail. Fewer men have no friends who will go surety for them. One practical suggestion might be the liberal extension of the bail system.

*The misdemeanor convict not to be treated as innocent.* The misdemeanor prisoner stands in a very different relation to society from the prisoner awaiting trial. He has been convicted of a crime and is sentenced to punishment. He is subject to labor without compensation and to such reformatory discipline as the law may provide. It is the intention of the law that his treatment shall be such that he shall feel that the way of the transgressor is hard and shall be deterred from future wrongdoing.

While it is true that the misdemeanor prisoner is a convict, sentenced to punishment, nevertheless the law discriminates sharply between the felon and the misdemeanor. The felon is sentenced ordinarily to a state prison for a term ranging from one year to life. The misdemeanor is regarded as a petty offender and is sentenced to jail or a house of correction, usually for a period extending from one day to sixty or ninety days, and seldom exceeding one year. Moreover, and more important, the sentence of the misdemeanor prisoner is often alternative between a fine and imprisonment. He is ordered to pay a cash fine of \$5, \$10, or more—usually less than \$50. This fine may be paid from his own pocket, from the earnings of his wife, or by some employer who desires his services, but in any case he goes free, without prejudice. If he is unable to pay his fine, he must serve his prison sentence.

It appears, therefore, that the misdemeanor who is sentenced to "fine or imprisonment" is in reality a prisoner for debt, confined simply because he cannot pay a small sum of money. It appears reasonable, therefore, that while his brief imprisonment should be sharp and deterrent, it should be less severe than that of the individual who has been guilty of a grave crime.

The United States Census of 1910 reported misdemeanor prisoners serving sentence as follows:

In county jails . . . . .	19,861
In workhouses and houses of correction . . . . .	9,968
Total . . . . .	29,829

It appears, therefore, that exactly two-thirds of these misdemeanor prisoners were found in county jails, where they were confined usually in immediate contact with prisoners awaiting trial, living under identical conditions, eating the same food, breathing the same air, and associating in idleness with the same individuals.

*The paradox of the county jail.* There is an extraordinary paradox in the conditions of the county jail: given the same building, the same room, the same surroundings, the same food, the problem is to make the confinement for one inmate a humane and easy detention, and for the other a severe and bitter punishment. You say, it cannot be done; but it is done every day in the county jails throughout America. The trouble is that we give the humane and easy detention to the wrong prisoner, and we give the severe and bitter punishment to the wrong prisoner. The tramp, the vagabond, the petty thief does not mind bad air, filthy floors, or even verminous bedding. Give him, in winter, a warm room, plenty of food, a pack of old greasy cards, and the society of others like himself, and he is entirely happy. He may even steal to get back into these comfortable conditions. But take a man of cleanly, decent habits, with some remnants of self-respect. Confine him in a steel cage where he is exhibited like a wild beast in a menagerie; give him no change of underclothing (as in the Cook County jail in Chicago; and the New Haven jail in 1917); lock him up from dark until daylight with five other prisoners in a cell  $6\frac{1}{2} \times 10$  feet; compel him to listen day and night to the vilest language in the thief's dialect, and to associate in idleness with the worst criminals in the county. Can you conceive of a worse punishment for a fairly decent man this side of perdition? Yet this is the prisoner who is entitled to humane and comfortable detention.

*Physical condition of jails.* As we have previously remarked, the efforts to improve the physical conditions of jails have thus far reached only a part of the county jails. One reason for this is the fact that most of the jails are built of stone, brick, iron, and steel—enduring materials. County commissioners have been very unwilling to tear down a solid fireproof building and erect an entirely new structure.

Another obstacle in the way of improvement of jail architecture has been the fact that very few architects have made a specialty of jail planning. Jail architecture has fallen very largely into the hands of a few professional jail-building firms. Some of these firms have had a sincere desire to build good jails, but they have been compelled to bear in mind constantly the commercial side of the business—what kind of a jail can be sold.

In the minds of the sheriffs the chief point has been security—what kind of jail construction will hold the prisoner most securely with the

smallest amount of watchfulness on the part of the jailer. The ingenuity of jail builders has been expended upon tool-proof material, locking devices, double doors, and steel cages, all of which are expensive. County commissioners have demanded low costs, and these have been secured by arranging for two to six prisoners in each cell, by constructing inside corridors three to six feet wide, and by minimizing bathrooms, hospitals, departments for women, and rooms for witnesses.

Intelligent sheriffs and inspectors have urged the location of cells against the outside walls, but they have been vigorously opposed because of increased cost of construction and greater liability to escape.

The worst reproach of the jail system is that prisoners awaiting trial, many of whom are young and inexperienced, are exposed to the most debasing and corrupting influences, and are kept under such conditions as destroy their self-respect and subject them to blackmail and persecution by prison associates after they are discharged.

*Elimination of enforced association in idleness.* The real crux of the jail question is how to obviate the pernicious effects of the enforced association of prisoners of all sorts and descriptions in idleness. Secretary A. G. Byers, of Ohio, for many years advocated the separate detention of each jail prisoner in his own cell, on the ground that the evils of separate confinement were infinitely less than the evils of corrupt association. He secured the enactment of a law compelling the separate confinement of prisoners in the jails of Ohio whenever the construction of the jail would permit, and he secured the erection of at least ten or twelve jails with this end in view. A similar law was enacted in the state of Minnesota. The separate confinement of prisoners prevailed in a good many individual jails in different parts of the country. There is much to be said in favor of this plan, but it is practically impossible to secure its enforcement because of the popular prejudice against solitary confinement.

*The Vermont plan.* The plan which has been pursued in Vermont for the last thirteen years is one under which the sheriff finds outside jobs for nearly all of his prisoners—both those awaiting trial and those serving sentence—in the vicinity of the jail and usually with farmers, but often with other employers. The prisoner goes to work in the morning with his dinner bucket, does a day's work, and returns at night to sleep in the jail. He remains constantly in the custody of the sheriff, who collects his wages, deducts one dollar per day to



reimburse the county for his keep, and pays the remainder to his dependent family, or, on discharge, to the prisoner himself. Under Sheriff Tracy's plan multitudes of prisoners have paid their way, earned money for their families, and have made good after discharge. The number of escapes has been negligible—less than one-fourth of one per cent. The plan is approved by the community.

### *Outline of a Jail Program*

1. The elimination of political control of county jails. This may be done by relieving the county sheriffs of responsibility for jail administration and making the jails state institutions administered by a state board; by making jailers and turnkeys state employes, selected under civil service rules solely on account of fitness; and by establishing schools for their training.

2. The exclusion of all sentenced prisoners who are sick people, insane patients, debtors, and children from county jails, and committing misdemeanants to state farms or district farms under state control with reformatory discipline and a state parole system. The state probation system should be extended to misdemeanor convicts as well as felons.

3. Use the jails exclusively for prisoners awaiting trial and provide suitable day employment, either in the jail, as is done in some of the jails of Massachusetts, New Hampshire, and Pennsylvania, or by finding employment by day at normal wages outside of the jail but near at hand so that the prisoner shall return each night and sleep in the jail, and shall be under the constant supervision of the jailer, in accordance with the Vermont plan which has been successfully pursued for fifteen years by Sheriff Tracy at Montpelier, and has been followed with some modification with a fair degree of success in Windham County, Connecticut, Newcastle County, Delaware, and Rock County, Wisconsin. The prisoner awaiting trial cannot be compelled to work, but should be permitted to work under the conditions above suggested. Those who decline to work should be separately confined in their own cells, as is required by law in Minnesota and Ohio, in order to prevent corrupt association.

4. Development of rational plans for the intellectual and moral improvement of jail prisoners in such ways as were developed twenty

years ago by the John L. Whitman Improvement Association, composed of prisoners in the jail in Cook County, Chicago. It is suggested that such plans might be developed by trained jailers through cooperation with such local organizations as the Salvation Army, the Young Men's Christian Association, the Young Women's Christian Association, the Knights of Columbus, the Young Men's Hebrew Association, the churches, or other similar organizations.

5. Provision for suitable religious services and recreational plans, which should be directed by intelligent and judicious people approved by the jailer.

6. Systematic and adequate plans for obtaining employment for discharged prisoners.

## CHAPTER XXXV

### CRIMINAL JUSTICE AND THE AMERICAN CITY<sup>1</sup>

#### 121. THE NATURE OF THE PROBLEM<sup>2</sup>

##### *Men, Machinery, and Environment*

Primitive man interprets all things in terms of benevolent or malevolent powers whom he must placate and to whose caprices he is subjected. His laws are gifts or revelations of the gods. The need for obeying them is to avoid the wrath of the gods, which will fall indiscriminately upon the community which harbors those who do not walk in the divinely dictated path. He seeks to understand things in terms of personalities, with wants and desires and wills like his own. This interpretation of the occurrences of nature in terms of personality is closely connected with a primitive instinct to hurt somebody or be avenged on something when things go wrong or one is crossed in his purposes or meets with some injury. The fundamental instinct of pugnacity reacts at once to such situations. In the Mosaic Law, if an ox gored a man, the ox must be surrendered for vengeance. In Athens, when a man was killed by the falling of a branch from a tree, the kinsmen of the dead man solemnly chopped down the tree. At Rome, if a domestic animal did any injury, the owner must surrender the animal to the vengeance of the injured person or pay a penalty for standing between the latter and his vengeance. When Huckleberry Finn's father stumbled over the barrel, he promptly kicked it in response to the same instinct. So when things go wrong in the conduct of government or in the administration of justice, the instinct of pugnacity is aroused and the public cries out for some one to be hurt. The general assumption is that legal and political miscarriages resolve

<sup>1</sup>By Roscoe Pound, Dean of the Faculty of Law of Harvard University, from *Criminal Justice in Cleveland* (pp. 559-611). Reports of the Cleveland Foundation Survey of the Administration of Criminal Justice in Cleveland, Ohio. Directed and edited by Roscoe Pound and Felix Frankfurter. Copyright, 1922, by the Cleveland Foundation.

<sup>2</sup>*Ibid.* pp. 559-566.

themselves into a matter of good men and bad men, and that the task is a simple one of discovery and elimination of the bad.

In truth, the matter is much more complicated than the bad-man interpretation of social and political difficulties assumes. Formerly men sought to understand history by means of a great-man interpretation. History was the record of the actions of great men and of the effects of those actions upon social life. Just now there is a certain tendency to revive this interpretation, and we need not ignore the rôle of great men while insisting that much else needs to be taken into account in order to understand history. In the same way we need not ignore the importance of good men in public life in insisting that much besides individual character needs to be considered in order to understand the shortcomings of legal administration. For good men, if we get them, must work in the social and political and legal environment, and with the legal and administrative tools of the time and place. Often the best of men are the victims of bad or inadequate machinery which impedes their earnest efforts to do right, and may even constrain them to do what they would not do freely. Easy-going men of the best intentions become caught in the machinery and unconsciously become part of it. Moreover, bad men, who commonly make their livelihood by their wits, are unceasingly vigilant to take advantage of the opportunities which outworn or inadequate machinery affords. Where the good are impeded by the instruments with which they must work, the easy-going give up the effort to do things in the face of the impediments and let the machinery take its own course. Thus the well-intentioned drift. It may be that the ill-intentioned secretly give direction to the drift; but quite as likely the drift is to their profit because they are watchful to make it so. We may not expect that any political or legal machinery may be conceived which will eliminate wholly these opportunities for the ill-intentioned to warp the administration of justice to their desires. Yet some machinery increases them both in number and in possibilities, and it must be our study to devise political and legal apparatus which will reduce them to a minimum in both respects.

Along with the bad-man interpretation there commonly goes a faith in legal and political machinery in and of itself: a belief that when anything goes wrong we should appeal at once to the legislature to put a law upon the statute book in order to meet the special case, and that



if this law is but abstractly just and reasonable, it will in some way enforce itself and set things to rights. We must enact the one perfect law for each special situation and put out of office the one bad man who perverts its operation. Then all will go well of itself. This faith in legal and political machinery is inherited and deep rooted. Our Puritan forbears abhorred subordination of one man's will to another's, and sought rather a "consociation" in which men should be "with one another, not over one another." They conceived of laws as guides to the conscience of the upright man, and believed that if laws were inherently just and reasonable, they would appeal to his conscience as such, and secure obedience by their own moral weight. This mode of political thought, well suited to the needs of a small group of God-fearing men founding a commonwealth in a new world, is ill suited to the needs of the enormous groups of men of all sorts and conditions who jostle each other in the city of today. There, law must be more than a guide to conscience. There, men will not take time to consider how the intrinsic right and justice of the law appeal to their consciences, but in the rush and turmoil of a busy, crowded life, will consider offhand how far the law may be made an instrument of achieving their desires. There, good laws will not enforce themselves, and the problem of enforcement becomes no less urgent than the problem of providing just laws. The administrative element in justice, the work of adjusting the application of law to individual cases with an eye to their unique features, becomes increasingly important as we become more crowded and division of labor becomes more minute, and individual wants and desires and claims come in contact or conflict at more points. In this administrative element of justice men count for more than machinery. And yet even here men must work with machinery. The output is a joint product of man and of machine, and it often happens that what the man does is dictated by the capacity or the exigencies of the machine quite as much as that what the machine does is dictated by the will of the man.

Not the least significant discoveries of modern psychology are the extent to which what we have called free will is a product, not a cause, and the extent to which what we take to be reasons for actions are but rationalizings of what we desire to do and do on different grounds. In the administration of justice there are many subtle forces at work of which we are but partially conscious. Tradition, education, physi-

cal surroundings, race, class and professional solidarity, and economic, political, and social influence of all sorts and degrees make up a complex environment in which men endeavor to reach certain results by means of legal machinery. No discussion simply in terms of men or of legal and political machinery, or of both, ignoring this complex environment, will serve. At whatever cost in loss of dramatic interest or satisfying simplicity of plan, we must insist on plurality of causes and plurality and relativity of remedies.

Both the bad-man interpretation and the faith in legislation and new laws as remedies illustrate a common mode of thinking which seeks to explain everything by some one cause and to cure every ill by some one sovereign remedy. It is not hard for an ordinary person to toss up one ball so as to keep it in motion continually. With practice one may learn to keep two going at once. But only a skilful juggler can so handle three or more at once. In the same way the ordinary man may think of one cause or one remedy at a time, but finds difficulty in bearing two in mind at once and leaves consideration of larger numbers to the expert. All branches of knowledge, theoretical and practical, have had to contend with this difficulty of holding all the factors of problems in mind at once. In all ages men have sought to avoid this difficulty by searching for some solving word or phrase or some ultimate idea or some universal cure-all, whereby to escape the hard task of thinking of many things in one connection. The several sciences have struggled with the desire for a simplification that covers up difficulties instead of overcoming them and the assumption of one cause for each phenomenon and one remedy for each ill. Neither the science of law nor the science of politics has escaped this struggle to master complex facts by giving them a fictitious appearance of simplicity. Nor has the quest for the simple and easy been more successful in these sciences than elsewhere. There was no easy royal road to learning, and there is no simple and easy popular road to an understanding of law and government and mastery of the difficult problems which each presents. The citizen who seeks such understanding must expect to study hard and think critically and to keep many things in mind at once while framing his judgments. He must expect those judgments to be largely tentative and relative to time, place, and circumstances. Much as he might like to rest in some formula and to believe in the efficacy of some one specific applied once for all, he

will find such hope as futile as the quest for the philosopher's stone or the fountain of youth or the one cure for all bodily ills in which men formerly engaged in a like hope of achieving an easy simplicity. At the very outset we must give up the search for a single explanation of the inadequacy to its purposes of punitive justice in action, and hence must give up the search for any single simple remedy.

We may say that the three chief factors in the administration of justice are—(1) the men by whom it is administered; (2) the machinery of legal and political institutions by means of which they administer justice; and (3) the environment in which they do so. One who surveys the workings of a legal system with these three things in mind will not go far wrong. Yet his picture will not be complete nor wholly accurate. He must take account also of certain practical limitations and practical difficulties inherent in the legal ordering of human relations, at least by any legal institutions thus far devised. The purposes of law, as we know them, and the very nature of legal institutions as we have received and fashioned them, involve certain obstacles to our doing everything which we should like to do by means thereof, and even to our doing well many things which we have been trying to do thereby for generations. These practical limitations on effective legal action explain much that, on a superficial view, is ascribed to bad men or bad legal machinery. Hence a fourth factor must be added, namely, (4) the bounds within which the law may function effectively as a practical system.

### *The Function of Law*

We look to the physical and biological sciences to augment the means of satisfying human wants and to teach us to conserve those means. We look to the social sciences to teach us how we may apply those means to the purpose of satisfying human wants with a minimum of friction and waste. Thus we may think of the legal order as a piece of social engineering; as a human attempt to conserve values and eliminate friction and preclude waste in the process of satisfying human wants. That part of the whole process of social engineering which has to do with the ordering of human relations and of human conduct through applying to men the force of politically organized society is the domain of law.

To illustrate the function of law we may consider the common case where large numbers of persons seek admission to a baseball game or seek to buy tickets at a theater. If each individual is left to himself, and in his desire to get to the ticket window first and procure the best seat pushes and shoves his individual way thereto as his strength and disposition dictate, it is not unlikely that few will be served in any reasonable time. When all seek to be served at once, no one may be served. In the endeavor of each to secure his individual desire in a crowd of fellow-men seeking likewise to secure their individual desires, he and they are sure to lose much of what they seek through the friction of a disorderly scramble, the waste of time and temper in trials of individual strength and persistence, and the inability to do business at the window in the push and shove of an unregulated crowd after they get there. On the other hand, if the crowd is "lined up," is ordered, and is required or persuaded to pursue an orderly course to the window and await each his turn, friction is done away with, time is conserved, waste of effort is eliminated, and each may secure freely and with comparative speed what he seeks to the extent that there are accommodations available. If there are not enough for all, yet all are satisfied so far as may be with a minimum of waste. The task of the law is similar. It is one of making the goods of existence go as far as possible in the satisfaction of human wants by preventing friction in the use of them and waste in the enjoyment of them, so that where each may not have everything that he wants or all that he claims, he may at least have all that is reasonably possible.

In this process of adjusting and ordering human relations and ordering human conduct in order to eliminate friction and waste, the legal order deals, on the one hand, with controversies between individuals. Where their claims or wants or desires overlap, it seeks to harmonize and reconcile those claims or wants or desires by a system of rules and principles administered in tribunals. On the other hand, it has to deal with certain acts or courses of conduct which run counter to the interests involved in the existence and functioning of civilized society. Civilized society rests upon the general security, including the general safety, the general health, peace, and good order, and the security of the economic order. It is maintained through social institutions, domestic, religious, and political. It involves a moral life and hence calls for protection of the general morals. In a crowded world



it presupposes conservation of social resources. It is a society of individual human beings, and hence its proper functioning presupposes the moral and social life of each individual therein according to its standards. These social interests, as they may be called, namely, the general security, the security of social institutions, the general morals, the conservation of social resources, and the individual moral or social life, are threatened by the anti-social acts or anti-social conduct or even anti-social mode of life of particular individuals. To restrain these persons, to deter others who might follow their example, to correct such anti-social mode of life as far as possible, and to give effect to these social interests, the law imposes a system of duties upon all persons in society, enforced through administrative and police supervision, through prosecution, and through penal treatment. The part of the legal system that defines these duties and prescribes how they shall be enforced by means of prosecutions and penal treatment is the criminal law.

It is important to bear in mind that the law is only one of many regulative agencies whereby human conduct is ordered for the securing of social interests. The household, religious organizations, fraternal organizations, social, professional, and trade organizations may operate also, through their internal discipline, to order the conduct of their members and to restrain them from anti-social conduct. In the past these organizations, whereby the force of the opinions of one's fellow-members may be brought to bear upon him, have played a large part in maintaining civilized society. When the law seems to break down in whole or in part we may well inquire, among other things, how far it is supported or is interfered with by some or all of these organizations, and how far they also or some of them must bear the blame. Obviously the number and vitality of these organizations in any society and the manner in which and ends for which they are conducted are important items in the environment of the administration of justice.

To think of the legal order functionally, in terms of engineering, is especially important in such a survey as the present. Here we are not concerned with legal rules in their abstract nature, but in their concrete workings. We are not seeking to know what the law is. We seek to know what the legal system does and how what it does measures up to the requirements of the ends for which it is done. Hence the purpose of the law must be before us as a critique of its achievements in

action, not some criterion drawn from the law itself. When the growth of a city makes the old mechanical structures, set up by the engineers of the past, inadequate to the wants or needs of the present, and calls for newer and larger and better structures of mechanical engineering, we do not judge the old structures by their conformity to some ideal plan, conceived before they were built, but by their results in action. We do not abuse the men who devised nor those who, for the time being, are operating the old structures. We set out to plan and build new and better structures. No less science, no less preliminary study, no less thorough preparation, no less intelligently directed effort, is required when the growth of a city calls for new structures in the way of social engineering. In each case the question is one of achieving certain practical ends in view of the means at hand, the structures of the past, the ingenuity of the engineers, the limitations of science, and the strength or feebleness of the public desire that those ends be met. In each case, also, the preliminary survey must take account, in the first instance, of the difficulties to be overcome.

Difficulties in the administration of justice, with which we must reckon in order to appraise intelligently the workings of any particular legal or judicial organization, are partly in the very subject matter. That is, they are wider than time and place and inhere in all attempts to order human conduct and human relations by the force of politically organized society—at least through any legal or administrative machinery which thus far the wit of man has been able to devise. Also they are partly in the times in which justice is administering. That is, they are wider than the place which we may be investigating and are involved in the general condition of legal science in the civilized world, in a particular time, the ideas as to the purpose of law entertained generally in that time, and the general attitude of the time toward law and government. Again, they are partly in the system that has come down to us from a past in which it was constructed under and to cope with different conditions and hence is ill-adapted to the social, economic, and political environment in which it must operate. Finally they may be partly in purely local conditions. Accordingly, I shall consider these difficulties under four heads: (1) Inherent difficulties; (2) general difficulties; (3) American difficulties; (4) local difficulties.<sup>1</sup>

<sup>1</sup> The chapter on local difficulties is not included in this book of Readings.—ED.

122. INHERENT DIFFICULTIES<sup>1</sup>*Dissatisfaction with the Administration of Justice*

Dissatisfaction with the administration of justice is as old as law. As long as there have been laws and lawyers conscientious men have believed that laws were but arbitrary technicalities, and that the attempt to govern the relations of men in accordance with them resulted largely in injustice. From the beginning others have asserted that, so far as laws were good, they were perverted in their application, and that the actual administration of justice was unequal or inefficient or corrupt. In the first stage of legal development one of the Greek Seven Sages said that "laws are like spiders' webs, wherein small flies are caught, while the great break through." In the history of Anglo-American law discontent has an ancient and unbroken pedigree from Anglo-Saxon times to the present. The Anglo-Saxon law books are full of complaint that the king's peace is not well kept, that justice is not done equally, and that great men do not readily submit to the law which is appropriate to them. Later the Mirror of Justices contains a list of 155 abuses in legal administration. Still later Wyclif complains that lawyers try causes "by subtlety and cavilations of law," and not by the gospel, "as if the gospel were not so good as pagan's law." In the reign of Henry VIII it was complained that good laws were obstructed in their operation by interpretations in the courts in which "everyone that can color reason maketh a stop to the best law that is beforetime devised." James I sent for the judges on complaint of the Archbishop of Canterbury, and argued to them that "the law was founded upon reason and that he and others had reason as well as the judges." In the eighteenth century there was complaint that the bench was occupied by "legal monks," utterly ignorant of human nature and of the affairs of men. After the Revolution the administration of justice in America was the subject of bitter attacks. Many judges were impeached, not for any crimes or misdemeanors, but because the whole administration of justice was suspected or objected to. The movement for an elective bench which swept over the United States about the middle of the last century grew out of these attacks. In England in the first half of the nineteenth century

<sup>1</sup> Roscoe Pound, in *Criminal Justice in Cleveland*, pp. 567-582.

attacks on the courts were hardly less bitter, as the reader of Dickens may readily verify. In our own time the agitation for recall of judges and recall of judicial decisions was strong less than a decade ago. We must not allow this perennial and perhaps inevitable discontent with all law to blind us to serious and well-founded complaints as to the actual operation of the legal system today. But it may give us a needed warning that some discontent is unavoidable, that we may not hope to obviate all grounds of complaint, and that we must begin by taking account of the inherent difficulties, because of which a certain amount of dissatisfaction must always be discounted.

### *Inherent Difficulties in all Justice according to Law*

1. *The mechanical operation of legal rules.* To a certain extent legal rules must operate mechanically and the most important and most constant cause of dissatisfaction with all law in all times grows out of this circumstance. A proper balance between strict rule and magisterial discretion is one of the most difficult problems of the science of law. Throughout the history of law men have turned from an extreme of the one to an extreme of the other and then back again, without being able to attain a satisfactory administration of justice through either. Sometimes, as in the strict law of the late medieval courts in England, or as in the maturity of American law in the last half of the nineteenth century, men put their faith in strict confinement of the magistrate by minute and detailed rules or by a mechanical process of application of law through logical deduction from fixed principles. By way of reaction at other times men pin their faith in a wide magisterial power to fit justice to the facts of the particular case through judicial discretion, as in the administrative tribunals of sixteenth- and seventeenth-century England, the executive and legislative justice of the American colonies, and the executive boards and commissions which are setting up in this country today on every hand. But these reactions are followed by new periods of fixed rules. Thus experience seems to show that the mechanical action of law may be tempered but may not be obviated.

We seek to administer justice according to law. That is, we seek just results by means of a machinery of legal rules. But a certain sacrifice of justice is involved in the very attainment of it through



rules, which yet are, on the whole, the best and most certain method of attaining it which we have discovered. Legal rules are general rules. In order to make them general we must eliminate what by and large are the immaterial elements of particular controversies. This would be of no consequence if all cases were alike, or if it were possible to foresee or to reckon precisely the degree in which actual cases approach or depart from the types which the law defines. In practice they approximate to these types in endless gradations, the one often shading into the next, so that in difficult cases choice of the proper type is not easy and often gives rise to judicial disagreement. As a result, when the law eliminates what are taken to be immaterial factors in order to frame a general rule, it can never avoid entirely elimination of factors which may have an important bearing upon some particular controversy.

There are three ways of meeting this difficulty: One is to provide a judicial or magisterial dispensing power, or even a series of devices for introducing discretion into the administration of justice. In American administration of criminal justice today there is a long series of such devices, one imposed upon the other. There is the discretion of the police as to who and what shall be brought before the tribunals. There are wide and substantially uncontrolled powers in prosecuting attorneys to ignore offenses or offenders, to dismiss proceedings in their earlier stages, to present them to grand juries in such a way that no indictment follows, to decline to prosecute after indictment, or to agree to accept a plea of guilty of a lesser offense. There is the power of the grand jury to ignore the charge. There is the power of the trial jury to exercise a dispensing power through a general verdict of not guilty. Next comes judicial discretion as to sentence or suspension of sentence or mitigation of sentence. Finally there is administrative parole or probation, and in the last resort executive pardon. All these involve uncertainty—opportunity for perversion of the device intended to meet exceptional cases into a means of enabling the typical offender to escape, and a sometimes intolerable scope for the personal equation of the official.

A second way of meeting this difficulty is to eliminate all discretion and seek to meet exceptional cases by an elaborate series of legal exceptions and qualifications and detailed provisos. But human foresight has not proved equal to foreseeing all the varieties of exception

for which provision must be made, and the attempt to cover everything by special provisions makes the legal system cumbrous and unworkable.

Hence the law usually ends by adopting a third method of compromising between wide discretion and over-minute law making. But in order to reach a middle ground between rule and discretion some sacrifice of flexibility of application to individual cases is necessary. And this sacrifice cannot go far without a danger of occasional injustice. Moreover, the slightest sacrifice, necessary as it is, makes legal rules appear arbitrary and brings the application of them more or less into conflict with the moral ideas of individual citizens. Whenever, in a complex and crowded society containing heterogeneous elements, groups and classes and interests have conflicting ideas of justice, this cause of dissatisfaction is likely to become acute. The individual citizen looks only at single cases, and measures them by his individual sense of right and wrong. The courts must look at cases by types or classes and must measure them by what is necessarily to some extent an artificial standard. If discretion is given the judge, his exercise of it may reflect the view of the element of society from which he comes or with which he associates. If his hands are tied by law, he may be forced to apply the ethical ideas of the past as formulated in common law and legislation. In either event there are many chances that judicial standards and the ethical standards of individual critics will diverge. Herein lies a fruitful cause of popular dissatisfaction with the administration of justice.

2. *Difference in rate of progress between law and public opinion.* In seeking to maintain the interests of civilized society through public administration of justice we risk a certain sacrifice of those interests through corruption or the personal prejudices of magistrates or individual incompetency of those to whom administration is committed. To make this risk as small as possible, to preclude corruption, restrain personal prejudices, and minimize the scope of incompetency, the law formulates the moral ideas of the community in rules and requires the tribunals to apply those rules. So far as they are formulations of public opinion, legal rules cannot exist until public opinion has become fixed and settled, and cannot well change until public opinion has definitely changed. It follows that law is likely to lag somewhat behind public opinion whenever the latter is active and growing.

Many devices have been resorted to in order to make the law more immediately sensitive and responsive to public opinion. Some of these are frequent and copious legislation upon legal subjects, deprofessionalizing the practice of law by opening it to all, regardless of education and special training, putting of the courts into politics through making judges elective for short terms, conferring wide powers upon juries at the expense of courts, setting up of administrative tribunals with large jurisdiction, to be exercised in a non-technical fashion, and recall of judges or of judicial decisions. The first four of these expedients were tried in the fore part of the last century, and many jurisdictions carried some or even all of them to extremes. The last three have been urged in the present century, and a tendency to commit enforcement of law to administrative agencies and tribunals has gone far. But none of them has succeeded in its purpose, and many of them in action have subjected the administration of justice not to public opinion, but to influences destructive of the interests which law seeks to maintain. We must recognize that this difficulty in justice according to law may be minimized, but not wholly obviated. We must make a practical compromise. Experience has shown that public opinion must affect the administration of justice through the rules by which justice is administered rather than through direct pressure upon those who apply them. Interference with the uniform and scientific application of them, when actual controversies arise, introduces elements of uncertainty, caprice, and deference to aggressive interests which defeat the general security. But if public opinion affects tribunals through the rules by which they decide, as these rules, once established, stand till abrogated or altered, it follows that the law will not respond quickly to new conditions. It will not change until ill effects are felt—often not until they are felt acutely. The economic or political or moral change must come first. While it is coming and until it is so definite and complete as to affect the law and formulate itself therein, divergence between law and a growing public opinion is likely to be acute and to create much dissatisfaction. We must pay this price for the certainty and uniformity demanded by the general security. It should be said, however, that consciousness of this inherent difficulty easily leads lawyers to neglect the importance of reducing this difference in rate of growth between law and public opinion so far as possible.



3. *Popular underestimation of the difficulties in administering justice.* Much popular dissatisfaction with justice according to law arises from a popular assumption that the administration of justice is an easy task to which anyone is competent. If the task of law may be described in terms of social engineering, laws may be compared to the formulas of engineers. They sum up the experience of many courts with many cases and enable the magistrate to apply that experience without being aware of it. In the same way the formula enables the engineer to utilize the accumulated experience of past builders even though he could not of himself work out a step in its evolution. The lay public are no more competent to construct and apply the one formula than the other. Each requires special knowledge and special preparation. But the notion that any one is competent to understand what justice requires in the intricate controversies and complicated relations of a modern urban community leads to all manner of obstacles to proper standards of training for the bar, to low standards of qualification for judicial office, and to impatience of scientific methods and a high measure of technical skill. This notion was especially strong in pioneer America, and its influence may be seen in extravagant powers of juries, lay judges of probate, and legislative or judicial attacks upon the authority of precedents in most of the States of the South and West. In criminal law it is usually manifest in legislation committing the fixing of penalties to trial juries, not perceiving that the trier, in order to determine the facts fairly, ought not to know certain things without which, on the other hand, the penalty cannot be fixed intelligently. Popular judgments are reached by labeling acts according to certain obvious characteristics. A judge, on the other hand, must examine carefully into all the details of the act, the conditions, internal and external, under which it was done, its motive and its consequences. Hence his judgment may well differ from that of the man in the street, although they apply the same moral standard. The man in the street is likely to regard this disagreement as proof of defects in the administration of justice. Yet courts do not sit to register his judgment on such data as he has but to do what the sober judgment of the community would dictate upon the basis of all the facts.

It is not generally realized how much the public is interested in maintaining the highest scientific standards in the administration of



justice. It is the most certain protection against corruption, prejudice, class feeling, and incompetence. Publicity is important, but it is impossible to invoke public indignation in every case, nor is it always evoked in the right cases. Our main reliance must be put in the training of bench and bar, whereby the judges form habits of seeking and applying principles when called upon to act, and the lawyers are able to subject their decisions to expert criticism. The latter is especially important. The daily criticism of trained minds, the knowledge that nothing which does not conform to the principles and received doctrines of scientific law will escape notice, will do more than any other agency for the every-day purity and efficiency of courts of justice. But as things are today the best trained element of the bar more and more does its chief work out of court, and wholly avoids criminal cases. Thus in our large cities the most effective check upon the administration of justice becomes inoperative, and this special difficulty is added to the inherent difficulty involved in public reluctance to admit the necessity of scientific justice and the training of bench and bar which it presupposes.

4. *Popular impatience of restraint.* Law involves restraint and regulation with the sheriff and his posse or the police force in the background to enforce it. As a society becomes more complex, as it carries further the division of labor, as it becomes more crowded and more diversified in race and in habits of life and thought, the amount of restraint and regulation must increase enormously. But however necessary and salutary this restraint, men have never been reconciled to it entirely; and most American communities are still so close to the frontier that pioneer hostility toward discipline, good order, and obedience is still often a latent instinct in the better class of citizens. The very fact that the restraint of the legal order is in some sort a compromise between the individual and his fellows makes the individual, who must abate some part of his activities in the interest of his fellows, more or less restive. In a time of absolute democratic theories this restiveness may be acute. The feeling that each individual, as an organ of the sovereign democracy, is above the law which he helps to make, fosters disrespect for legal methods and legal institutions and a spirit of resistance to them. Thus the administration of justice according to law is made more difficult. Whether the law is enforced or is not enforced, dissatisfaction will result.

Popular impatience of restraint is aggravated in the United States by political and legal theories of "natural law." As a political doctrine, they lead individuals to put into action a conviction that conformity to the dictates of the individual conscience is a test of the validity of a law. Accordingly, jurors will disregard statutes in perfect good faith, as in the Sunday-closing prosecutions in Chicago in 1908. In the same spirit a well-known preacher wrote not long since that a prime cause of lawlessness was enactment of legislation at variance with the law of nature. In the same spirit a sincere and, as he believed, a law-abiding labor leader declared in a Labor Day address that he would not obey mandates of the courts which deprived him of his natural "rights." In the same spirit the business man may regard evasion of statutes which interfere with his carrying on business as he chooses as something entirely legitimate. In the same spirit public officials in recent addresses have commended administrative violation of the legal rights of certain obnoxious persons, and one of the law officers of the federal government has publicly approved of mob violence toward such persons. Such examples at the top of the social scale do not make for respect for law at the bottom.

5. *Inherent limitations on effective legal action.* There are certain limitations inherent in the administration of justice through legal machinery—at least, through any of which we have knowledge—which prevent the law from securing all interests which ethical considerations or social ideals indicate as proper or even desirable to be secured. Five such limitations are of much importance in connection with the criminal law. These are: (1) Difficulties involved in ascertainment of the facts to which legal rules are to be applied, so that, especially in certain types of case, it is difficult to discover the offender or there is danger of convicting the innocent; (2) the intangibility of certain duties which morally are of much moment but legally defy enforcement, as, for instance, many duties involved in the family relation to which courts of domestic relations or juvenile courts seek to give effect; (3) the subtlety of certain modes of inflicting injury and of modes of infringing important interests which the legal order would be glad to secure effectively if it might; (4) the inapplicability of the legal machinery of rule and sanction to many human relations and to some serious wrongs, and (5) the necessity of relying upon individuals to set the law in motion.

Three of the limitations just enumerated call for some notice. Intrigue may seriously disturb the peace of a household. The subtle methods by which grievous wrongs may be done in this way have been the theme of playwright and novelist for generations. One court, indeed, has tried the experiment of enjoining a defendant from flirting with a plaintiff's wife. But the futility of legal interference in such cases is obvious and is generally recognized. In no other cases is self-redress so persistently resorted to nor so commonly approved by the public. Again, many cases are too small for the ponderous machinery of prosecution and yet may involve undoubted and serious wrongs to individuals. How to deal with the small annoyances and neighborhood quarrels and petty depredations and small-scale predatory activities which irritate the mass of an urban population but do not seem to involve enough to justify the expensive process of the law is by no means the least of the problems of the legal order in the modern city. Here as elsewhere we must make a practical compromise, and whatever the compromise, many will needs be dissatisfied. Finally, law will not enforce itself. We must in some way stimulate individuals to go to the trouble of vindicating it; and yet we must not suffer them to use it as a means of extortion or of gratifying spite. Our rules must obtain in action, not merely lie dormant in the books. But if they are to obtain in action, the authority which prescribes them must be so backed by social-psychological power as to be in a position to give them effect as motives for action in spite of countervailing individual motives. Hence the notorious futility of two sorts of lawmaking which are very common: (1) Lawmaking which has nothing behind it but the sovereign imperative, in which the mere words "be it enacted" are relied upon to accomplish the end sought, and (2) lawmaking which is intended to "educate"—to set up an ideal of what men ought to do rather than a rule of what they shall do. To a large extent law depends for its enforcement upon the extent to which it can identify social interests with individual interests, and can give rise to or rely upon individual desire to enforce its rules. In criminal law the desire of the offender to escape and the desire of his friends and relatives that he escape, are strong and active. Unless the desires of other individuals may be enlisted in the service of the law, administrative machinery is likely to fall into an easy-going routine, readily manipulated in the interest of offenders, and the law



in the books to become wholly academic, while something quite different obtains in action.

Few appreciate the far-reaching operation of the foregoing limitations upon legal action. There is constant pressure upon the law to "do something," whether it may do anything worth while or not. In periods of expansion the tendency to call upon law to do more than it is adapted to do is especially strong. The result is sure to be failure and the failure affects the whole legal order injuriously.

### *Inherent Difficulties in all Criminal Justice*

1. *Public desire for vengeance.* Historically, one of the origins of criminal law is in summary community self-help, in offhand public vengeance by a more or less orderly mob. Regulation of this public vengeance, giving rise to a sort of orderly lynch law, is one of the earliest forms of criminal law. The spirit which gave rise to this institution of summary mob self-help in primitive society is still active. It has its roots in a deep-seated instinct, and must be reckoned with in all administration of criminal justice. Moralists and sociologists no longer regard revenge or satisfaction of a desire for vengeance as a legitimate end of penal treatment. But jurists are not agreed. Many insist upon the retributive theory in one form or another, and Anglo-American lawyers commonly regard satisfaction of public desire for vengeance as both a legitimate and a practically necessary end. This disagreement is reflected in all our criminal legislation. Statutes enacted at different times proceed upon different theories. Indeed, the usual course is that adherents of one theory of penal treatment will procure one measure, and adherents of a different theory another, from lawmakers who have no theory of their own. For nothing is done with so little of scientific or orderly method as the legislative making of laws.

Administration is necessarily affected by the fundamental conflict with respect to aims and purposes which pervades our penal legislation. But apart from this, the conflicting theories are also at work in administration. One magistrate paroles freely; another may condemn the system of parole. One executive pardons freely, another not at all. One jury is stern and as like as not acts upon the revenge theory; another jury is soft-hearted. One judge is systematically



severe and holds that crime must inevitably be followed by retribution; another is systematically lenient, and many others have no system or policy whatever. Thus the fact that we are not all agreed, nor are we ourselves agreed in all our moods, infects both legislation and administration with uncertainty, inconsistency, and in consequence inefficiency. All attempts to better this situation must reckon with a deep-seated popular desire for vengeance in crimes appealing to the emotions, or in times when crimes against the general security are numerous. Lawyers know well that the average client is apt to be eager to begin a criminal prosecution. He is not satisfied to sue civilly and obtain compensation for an injury. He insists upon something that will hurt the wrongdoer, and is willing to pay liberally to that end. It has taken a long time to eliminate the revenge element from the civil side of the law. Indeed, traces still remain there. On the criminal side this element is still vigorous. The general security requires us to repress self-help, especially mob or mass self-help. Also we must strive to meet the demands of the moral sentiment of the community. These considerations constrain us to keep many things in the criminal law which are purely retributive, and thus serve to preserve a condition of fundamental conflict between different parts of the system. Undoubtedly the law and its administration should reflect the sober views of the community, not its views when momentarily inflamed. But the sober views of the average citizen are by no means so advanced on this subject as to make a wholly scientific system possible.

2. *A condition of internal opposition in criminal law due to historical causes.* As has been said, criminal law exists to maintain social interests as such; but the social interest in the general security and the social interest in the individual life continually come into conflict, and in criminal law, as everywhere else in law, the problem is one of compromise; of balancing conflicting interests and of securing as much as may be with the least sacrifice of other interests. The most insistent and fundamental of social interests are involved in criminal law. Civilized society presupposes peace and good order, security of social institutions, security of the general morals, and conservation and intelligent use of social resources. But it demands no less that free individual initiative which is the basis of economic progress, that freedom of criticism without which political progress is impossible, and

that free mental activity which is a prerequisite of cultural progress. Above all it demands that the individual be able to live a moral and social life as a human being. These claims, which may be put broadly as a social interest in the individual life, continually trench upon the interest in the security of social institutions, and often, in appearance at least, run counter to the paramount interest in the general security. Compromise of such claims for the purpose of securing as much as we may is peculiarly difficult. For historical reasons this difficulty has taken the form of a condition of internal opposition in criminal law which has always impaired its efficiency. As a result there has been a continual movement back and forth between an extreme solicitude for the general security, leading to a minimum of regard for the individual accused and reliance upon summary, unhampered, arbitrary, administrative punitive justice, and at the other extreme excessive solicitude for the social interest in the individual life, leading to a minimum of regard for the general security and security of social institutions and reliance upon strictly regulated judicial punitive justice, hampered at all points by checks and balances and technical obstacles. In England the medieval legal checks upon punitive justice were followed by the rise of the Star Chamber and other forms of executive criminal administration. This was followed by the exaggerated legalism of a common-law prosecution. The latter, carried to an extreme in nineteenth-century America, is being followed hard today by the rise of administrative justice through boards and commissions. The over-technical tenderness for the offender in our criminal law of the last century is giving way to carelessness of violation of the constitutional rights of accused persons and callousness as to administrative methods of dealing with criminals, real or supposed, in the supposed interest of efficient enforcement of penal laws. . . .

Criminal law has its origin, historically, in legal regulation of certain crude forms of social control. Thus it has two sides from the beginning. On the one hand, it is made up of prohibitions addressed to the individual in order to secure social interests. On the other hand, it is made up of limitations upon the enforcement of these prohibitions in order to secure the social interest in the individual life. In Anglo-American criminal law, as a result of the contests between courts and king in seventeenth-century England, the accused came to be thought of not as an offender pursued by the justice of society, but as a pre-

sumably innocent person pursued by the potentially oppressive power of the king. The common law, declared in bills of rights, came to be thought of as standing between the individual and the state, and as protecting the individual from oppression by the agents of the state. No efficient administration of criminal law in a large urban population is possible under the reign of such a theory. But we have abandoned it in places only. Despite an obvious reaction, it still determines many features of American criminal prosecution. Moreover, we must not forget that it is but a historical form of one of the two elements of which criminal law is made up.

3. *The close connection of criminal law and administration with politics.* Criminal law has a much closer connection with politics than the civil side of the law, and this operates to its disadvantage, particularly in respect of administration. There is relatively little danger of oppression through civil litigation. On the other hand, there has been constant fear of oppression through the criminal law. In history drastic enforcement of severe penal laws has been employed notoriously to keep a people or a class in subjection. Not only is one class suspicious of attempts by another to force its ideas upon the community under penalty of prosecution, but the power of a majority or even a plurality to visit with punishment practices which a strong minority consider in no way objectionable is liable to abuse. Whether rightly or wrongly used, this power puts a strain upon criminal law and administration. Also criminal prosecutions are possible weapons of offense and defense in class and industrial conflicts. Hence suspicion arises that one side or the other may get an advantage through abuse of the prosecuting machinery, giving rise to political struggles to get control of that machinery. Thus considerations of efficient securing of social interests are pushed into the background, and the atmosphere in which prosecutions are conducted becomes political. In practice the result is, when the public conscience is active or public indignation is roused, to be spectacular at the expense of efficiency. When the public conscience is sluggish and public attention is focused elsewhere, the temptation is to be lax for fear of offending dominant or militant political groups.

4. *The inherent unreliability of evidence in criminal cases.* Inherent unreliability of evidence upon which tribunals must proceed affects all departments of judicial administration of justice. But in criminal law, where passions are aroused, where the consequences are so serious,



where unscrupulous persons are so apt to be arrayed on one side or the other, the difficulties growing out of the necessity of relying upon human testimony are grave. Psychologists have demonstrated abundantly the extent to which errors of observation and unsuspected suggestion affect the testimony of the most conscientious. Undoubtedly there is much practical psychology and trained intuition behind the common-law rules of evidence; but they are based largely on the psychology of the jury rather than on that of the witness. The problem of lying witnesses, defective observation, and suggestion, as affecting proof in criminal cases, has yet to be studied scientifically by American lawyers. The maxims and presumptions in which we express our practical experience in these connections are too much of the rule-of-thumb type, and are apt to be merely pieces to move in the procedural game between prosecutor and accused.

Moreover, in the administration of criminal law the inherent unreliability of oral evidence of witnesses is aggravated by three circumstances. On the one hand there is the bad influence of police esprit de corps. The unfortunate convictions of Beck and Edalji in England, which will long remain classical examples of convictions of the innocent in modern times, were clearly traceable to determination of the police to convict innocent men whom they had erroneously assumed to be guilty. The testimony of experienced trial lawyers who have written memoirs or reminiscences is uniform to the effect that the testimony upon which prosecutors must chiefly rely is apt to be so colored and warped as to be subject to grave doubt. Serjeant Ballantine, whose long experience in prosecuting and defending entitled him to speak with authority, says that esprit de corps, antipathy toward the criminal classes, the habit of testifying so that it ceases to be regarded as a serious matter, and the temptation which besets police officers to communicate opinions or theories to the press, thus "pledging themselves to views which it is damaging to their sagacity to retract," so operate as to cause serious and even fatal miscarriages of justice. The student of criminology may verify this abundantly by study of American criminal trials. Yet from the nature of the case such testimony is the best available.

In some part police esprit de corps is counteracted by the activity of habitual defenders of criminals and activity of friends and relatives of the accused. But these are often more available and more efficacious



in the service of the guilty than of the innocent. Getting witnesses out of the way or silencing them or modifying their testimony by importunity, social pressure, intimidation, appeals to race solidarity, or sympathy are thoroughly familiar matters to the observer of criminal justice in action, and the memoirs and reminiscences of criminal trial lawyers show that nothing new in these respects has been devised in the modern American city. Caleb Quirk, Esq., of Alibi House, in the early part of the last century, would be quite at home in any of our cities today.

We are dealing here with an inherent difficulty. Yet much may be done to mitigate it which we are not doing. (1) If scientific methods of criminal investigation were employed at the very beginning and the preparation of the general run of criminal cases in the prosecutor's office were as thorough and systematic as the preparation of the civil cases, for example, of a public service company, the opportunities for subornation that have made the alibi notorious and the opportunity for suppression of evidence would be much lessened. (2) If the administration of oaths and the formalities of reception of evidence in all stages of a criminal proceeding and before all tribunals were such as to impress those who take part with the seriousness of what is going on, some part of the notorious perjury which attends the administration of justice might be precluded. (3) A better organized and better trained and better disciplined bar might eliminate the type of practitioner that promotes subornation and grows rich on systematic and scientific suppression of evidence and silencing of witnesses. It is noteworthy that incorporation of the lower branch of the legal profession in England had the effect of driving out a low type of solicitor which still thrives in large numbers with us. But for the most part we must hope that study of the psychology of testimony will reveal better methods of ascertaining facts in criminal prosecutions than those which are now available. Until such methods come we must reckon with unreliability of evidence as a formidable inherent difficulty.

5. *The wider scope for administrative discretion required in criminal law.* As compared with the adjustment of civil relations, criminal law involves a much greater scope for discretion. Much that may be done mechanically in matters of property and contract, and hence with assurance that improper influences are excluded by the perfection of the machinery, must be done by the individual judgment of judges

or public officers when we are dealing with human conduct, and hence is open to all the disturbing influences that may be brought to bear upon the individual human being. It is one of the difficult problems of all law to maintain a due proportion between detailed rules and judicial or administrative discretion. In criminal law the dangers involved in such discretion are obvious. The power which it involves is large and is peculiarly liable to abuse. Moreover, the consequences of abuse are serious, involving life and liberty, where on the civil side of the law the effects extend rather to property. But there are two circumstances in criminal law that require a wide discretion on the part of prosecutors and magistrates: (1) In the administration of criminal law the moral or ethical element plays a large part, and purely moral or ethical matters do not lend themselves to strict rules. (2) As we now think, penal treatment is to fit the criminal rather than punishment to fit the crime. Hence whether there shall be a prosecution and what shall be done to and with the convicted offender after prosecution must be left largely to the discretion of someone. Even when we sought to make the punishment fit the crime the impossibility of a mathematically constructed system of penalties became manifest, and sentence, within wide limits, was a matter for the discretion of the trial judge. In those days notorious inequalities in sentences bore constant witness to the liability of unfettered discretion to abuse, even in the best of hands. In England, review of sentences by the Court of Criminal Appeal is relied upon to meet this particular danger. In the United States the tendency is to entrust the nature and duration of penal treatment to some administrative board. But whichever course is taken the beginning and continuation as well as the details of the ultimate result of a criminal prosecution must be left largely to the discretion of someone, with all which that may imply.

6. *Inherent inadequacy of penal methods.* On the civil side of the law the modes of enforcement have become very efficacious. If A dispossesses B of land, the sheriff may put A out and B back in possession. If A dispossesses B of a chattel, the sheriff may take it from A and give it back to B. If A does not convey to B as he promised, an officer of the court may make a deed to which the law gives the effect of the promised conveyance. If A does not pay a debt he owes B, the sheriff may sell A's goods and pay B out of the proceeds. No such thoroughgoing remedies are available in criminal law. To guard

against further harm from a particular offender, and to guard against others who might repeat the offense, society relies upon fear as a deterrent. It attempts to create a wide-spread fear of punishment and to bring this fear home to the particular offender. Preventive justice, in such matters as are dealt with by the criminal law, must be confined within narrow limits, since it involves undue interference with the freedom of action of individuals. Accordingly, in the great mass of cases the criminal law can only step in after an offense has been committed. But the system of protecting society by creating a general fear of punishment encounters two inherent difficulties: (1) Experience has shown that fear is never a complete deterrent. The venturesome will believe they can escape. The fearless will be indifferent whether they escape. The crafty will believe they can evade, and enough will succeed to encourage others. (2) Threats of punishment are often likely to defeat themselves. The zeal of lawmakers frequently imposes penalties to which juries will not agree that offenders should be subjected. It sometimes defines acts as criminal for which juries will not agree to see men punished. Thus we get so-called dead-letter laws, which weaken the authority of law and destroy the efficacy of fear as a deterrent. Sometimes, indeed, it has happened that courts did not have sympathy with over-severe laws or extreme penalties and warped the law to prevent conviction. Our criminal procedure still suffers from the astuteness of judges in the past to avoid convictions at a time when all felonies were punishable with death. However efficient the administration of criminal law, it will be necessary to make some allowance for this inherent difficulty.

7. *The tendency to put too great a burden on the criminal law.* It is a great disadvantage to the criminal law that it is so interesting in action to the layman. Criminal law is the type of law which figures chiefly in the morning papers; hence when the layman thinks of law, he is almost certain to think of criminal law. Moreover, because of a well-known human instinct, the layman's short and simple cure for all ills is to hurt somebody. Hence every lay lawmaker turns instinctively to the criminal law when he comes to provide a sanction for his new measure, and every new statute adds one more to the mass of prescribed penalties for which a criminal prosecution may be invoked. It is impossible for any legal machinery to do all which our voluminous penal legislation expects of it. Serious study of how to make our huge

annual output of legislation effective for its purpose without prosecutions and giving up the naïve faith that finds expression in the common phrase, "there ought to be a law against it," as an article in the legislative creed, would do much for the efficiency of criminal law.

### 123. GENERAL DIFFICULTIES<sup>1</sup>

#### *Prevalence of Dissatisfaction with Criminal Law and Its Administration*

Dissatisfaction with criminal law and its administration is neither a local nor an American phenomenon. It was world wide at the beginning of the second decade of the present century. For the past seven years other matters have occupied men's thoughts. But there are signs already that agitation for improvement is breaking out again or will soon break out again in many lands. In Italy a commission is now at work upon a new criminal code and promises a thoroughgoing reform, especially in procedure. Certain causes operating throughout the civilized world, and affecting all administration of criminal justice in the present generation, must be taken into account in any critical appraisal of the workings of the criminal law in a particular locality.

#### *New Demands upon Law*

Law, it has been said, "is but the skeleton of social order." It must be "clothed upon with the flesh and blood of morality." In a time of unrest and doubt as to the very foundations of belief and of conduct, when absolute theories of morals and supernatural sanctions have much less hold upon the mass of the people than when our institutions were formative, and as a consequence conscience and individual responsibility are relaxed, law is strained to do double duty, and much more is expected of it than in a time when morals as a regulating agency were more efficacious. In an era of secularization in which the law is looked to for much that was formerly conceived as in the domain of the church and the home, in an urban, industrial society in which, for example, truancy and incorrigibility of children may be matters for a court rather than for household discipline, we must expect that the legal administration of justice will be affected sensibly.

<sup>1</sup> Roscoe Pound, in *Criminal Justice in Cleveland*, pp. 583-589.



1. *The problem of enforcement.* In the present century new demands upon law and new social conditions involved in our urban, industrial civilization have made enforcement of law a conspicuous problem in legal science. In a simpler, more homogeneous, less crowded society it was assumed that the enforcing machinery and the efficiency of its operation were not matters of concern to the lawyer. He might think of law as the declared will of the State. In that event he would say that his business was to know and interpret and apply the declaration of the State's will. If the precepts in which that will was declared were not enforced, the trouble lay, not in the law, but in the supineness or incompetency or corruption of the executive officials whose duty it was to execute the law. Or he might think of law as a body of principles of justice, discovered by human experience of conduct and decision, and only formulated by legislator or court or jurist. In that event, if they were not enforced, he was inclined to say that it was because they ought not to be enforced; because they were not sound or accurate formulations of the principles revealed by history and tested by experience. Or, again, he might think of law as a formulation of moral or ethical principles, deriving their real authority from their inherent justice. In that case he was likely to think that they would largely enforce themselves because of their appeal to the conscience of the individual. Nor was this wholly untrue at a time when the program of law was relatively simple and the reasons behind the relatively few laws were apparent on the surface to almost any thoughtful man. But when the area of legal interference becomes greatly enlarged, as it must be in the complex urban industrial society of today; when law has an ambitious program of interposing in almost every field of human activity and regulating human conduct in all its forms and relations, the reasons behind the multitude of legal precepts contained in our voluminous criminal codes and administrative regulations are not readily apparent, and often may well be disputed by those who are able to perceive them. The lawyer, trained in ideas which were appropriate to the simple legal program of the past, is likely to assume today that enforcement of the law is nothing of which he need think. Accordingly, when in the endeavor to secure newly pressing interests ambitious but inexperienced reformers turn to penal legislation and add new sections to the overburdened penal code, or the public become alarmed in a time of reconstruction and unrest and

threaten an orgy of drastic penal legislation, the lawyer whose habit has been to study the justice of rules, rather than the enforcement of them, is in no position to give effective assistance. Much of popular distrust of the legal profession is due to this change in the conditions to which legal theories are to be applied, while the theories still obtain.

2. *The demand for concrete justice.* In the nineteenth century, with a simple program of preserving the general security in a primarily rural agricultural society, we were wont to think of justice in terms of the abstract claims of abstract human beings. Today emphasis is put rather upon concrete justice in the individual case. We are not so ready to admit, as an excuse for failure of justice in particular cases, that "John Doe must suffer for the commonwealth's sake." It is felt that abstractly just rules do not justify results that fall short of justice, and that injury to John Doe may be avoided if we bestir ourselves to find more effective legal and administrative devices. Hence today legal proceedings are judged by their results in action, not by their conformity to some abstract, ideal scheme. Features of the administration of justice which were regarded patiently in the middle of the nineteenth century are spoken of now with impatience in a community in which conservation of time and effort has become important, and men have learned from modern business and industrial engineering to think in terms of results. The lawyer has been trained to think of the general or average result reached in a type or class of cases, and the demand of the present century for results in individual cases conflicts with his traditional ideas. Adjustment of legal thinking and judicial methods to this demand for concrete justice—to a large extent a legitimate demand in the conditions of today—must go forward slowly in the nature of things, and will long contribute to an unsatisfactory administration of law in certain types of case in which the demand is particularly insistent and the legal tradition is specially averse thereto.

3. *The demand for individualization.* One of the most insistent demands of today is for individualization of criminal justice—for a criminal justice that will not turn recidivists through the mill of justice periodically at regular intervals, nor, on the other hand, divert the youthful occasional offender into a habitual criminal by treating the crime, in his person, rather than the criminal. The nineteenth century was hostile to individualization and to administrative discretion, which is the chief agency of individualization, seeking to reduce the whole

administration of justice to abstractly just, formal, rigid rules, mechanically administered. This was true the world over. It was specially true, and true to an exaggerated degree, in America, because of the political ideas of the Puritan, who believed men should be "with one another, not over one another," of politico-legal ideas that grew out of contests between courts and crown in seventeenth-century England, of experience of the American colonists with executive and legislative justice, and of pioneer jealousy of administrative and governmental action. The result was to impose shackles of detailed rules and rigid procedure upon every sort of judicial, administrative, and governmental activity. In practice there was a general policy of "can't." No agency of government was to be allowed to do anything beyond a necessary minimum. Hence we got rigid, detailed procedure and hard and fast schemes of penal treatment, lest prosecutor or court or prison authorities do something spontaneously in view of the exigencies of a particular case—we got a procedure governed by a code, rather than by rule and custom of the court, as at common law; we got in some states a police discipline shackled by checks that deprived it of all real efficacy, and we got in many states constitutional obstacles to legislation in the form of detailed requirements as to the generality of laws, as to what should appear in legislative journals, and as to title and repeal. It should be emphasized that this spirit, which hampers effective criminal justice so seriously, has no necessary connection with an economic policy of *laissez faire*. Whatever the policy of a society may be as to interference with or regulation of men's general activities or economic activities or business relations, it is no part of a *laissez faire* policy to leave individual criminal activity as free as possible to follow its own course. The spirit of hampering judicial and administrative agencies was due rather to faith in abstract rules and in machinery as inherently efficacious, and to lack of faith in official action as such for any purpose, than to any economic policy. Without regulating many things, the law may yet set out to deal effectively with what it does attempt to regulate or to prevent.

### *Changed Ideas as to the End of Criminal Law*

1. *The passing of the retributive theory.* Our traditional criminal law thinks of the offender as a free moral agent who, having before him the choice whether to do right or wrong, intentionally chose to do



wrong. In the nineteenth century we believed that justice consisted in imposing upon this wilful wrongdoer a penalty exactly corresponding to his crime. It was not a question of treatment of this offender, but of the exact retribution appropriate to this crime. We know today that the matter is much more complicated than this simple theory assumes. We know that criminals must be classified as well as crimes. We know that the old analysis of act and intent can stand only as an artificial legal analysis and that the mental element in crime presents a series of difficult problems. We recognize that in order to deal with crime in an intelligent and practical manner we must give up the retributive theory. But this means that we must largely make over our whole criminal law, which was rebuilt around that theory in the last two centuries, and that work is going on slowly all over the world. The condition of criminal law calls for continuous intelligent bringing to bear upon the problem of securing social interests by law and upon the detailed applications of that problem—for the bringing to bear upon them of every resource of legal and social and medical science. We shall achieve lasting results neither by some analytical scheme or rigid system worked out logically in libraries on the sole basis of books and law reports, as some lawyers seem to hope, nor by abandoning the experience of the past, preserved in the law reports, and turning exclusively to administrative, non-legal, expert agencies, which is the hope of many laymen. Pending this making over of criminal law we must expect that many features of the administration of criminal justice will remain unsatisfactory.

2. *Increased regard for human personality.* Today we feel that when the law confers or exercises a power of control the legal order should safeguard the human existence of the person controlled. Thus the old-time sea law, with its absolute power of the master over the sailor, described in action by Dana in *Two Years Before the Mast*, the old-time ignominious punishments that treated the human offender like a brute, that did not save his human dignity—all such things have been disappearing as we come to take account of the social interest in the individual human life and to weigh that interest against the social interest in the general security on which the last century insisted so exclusively. This feeling for the human dignity, the human life, of the offender is somewhat different from the feeling for abstract individual liberty and consequent system of checks upon prosecution



and safeguards of accused persons and loopholes for escape which developed in Anglo-American criminal law for historical reasons from the seventeenth to the nineteenth century. Until it crystallizes in well-settled and well-understood legal and administrative policies, until proper compromises between the interest in the individual human life and the general security, security of social institutions, and general morals are worked out at many points, there is likely to be vacillation, uncertainty, and inefficiency in the administration of criminal justice. This will be true especially at the two extremes of a prosecution—the beginning in police discretion when an offense has been committed, and the end in penal treatment of the convicted offender. Cleveland has seen in somewhat acute form a phenomenon that is to be seen in criminal justice throughout the world, and is merely an incident of changing ideas as to what we are doing through the criminal law and why we are doing it. The effect in unsettling the administration of criminal law is unfortunate. Discontent with the results of some of the newer methods of penal treatment is not unlikely to lead to temporary reaction to older methods, which will but aggravate the difficulty. Partly these newer methods and their results have been misunderstood and misrepresented. Partly results which are justly objected to are due to the inevitable crude fumbings involved in all application of new methods. Naturally the public is impatient. But we can no more return to the old methods than we can return to horse-cars or ox-teams or flails or sickles. We must go forward scientifically and not vacillate between extreme experiments along new lines and reactionary reversions to methods that belong wholly to the past.

3. *New developments in psychology and psychopathology.* Medical science has all but undergone a rebirth within a generation. Within a generation psychology has risen to a practical science of the first importance, with far-reaching applications on every side. Psychopathology has overturned much that the criminal law of the past had built upon. Indeed, the fundamental theory of our orthodox criminal law has gone down before modern psychology and psychopathology. The results are only beginning to be felt. One result is a just dissatisfaction on the part of the medical profession with what they observe in judicial administration of justice and legal treatment of criminals. In prevention, in criminal investigation as a preliminary to prosecution, in the trial of issues of fact and in penal treatment we have much

to learn from the physician and psychologist and psychopathologist. But during the period of transition in which we are learning it and are learning how to use it there will be much experimenting and some fumbling and much dissatisfaction.

### *The Present Condition of Criminal Law*

As a result of the several causes suggested above, the criminal law of today, throughout the world, is made up more or less of successive strata of rules, institutions, traditional modes of thought, and legislative provisions representing different and inconsistent ideas of the end of criminal law, the purpose of penal treatment, and the nature of crime. This is true especially in Anglo-American criminal law. With us all stages of development and all theories and all manner of combinations of them are represented in rules and doctrines which the courts are called upon to administer. Indeed, all or many of them may be represented in legislative acts bearing the same date. The result is that our criminal law is not internally consistent, much less homogeneous and well organized. Even if the administrative machinery were all that it should be and the personnel of administration were all that it should be, the condition of criminal law of itself would impede satisfactory administration.

Unfortunately, criminal law never attained the systematic perfection that marks the civil side of the law in Roman law, and is beginning to be found on the civil side of Anglo-American law. Until the criminal law is studied as zealously and scientifically and is regarded by teachers, students, lawyers, and judges as being as worthy of their best and most intelligent efforts as is the civil side of the law, the administration of criminal justice will continue to fall short of public expectation.

### 124. AMERICAN DIFFICULTIES<sup>1</sup>

#### *Conditions for Which American Criminal Law and Procedure Were Shaped*

To understand the administration of criminal justice in American cities today we must first perceive the problems of administration of justice in a homogeneous, pioneer, primarily agricultural community

<sup>1</sup> Roscoe Pound, in *Criminal Justice in Cleveland*, pp. 590-611.

of the first half of the nineteenth century, and the difficulties involved in meeting those problems with the legal institutions and legal doctrines inherited or received from seventeenth-century England. We must then perceive the problems of administration of justice in a modern heterogeneous, urban, industrial community and the difficulties involved in meeting those problems with the legal and judicial machinery inherited or received from England and adapted and given new and fixed shape for pioneer rural America.

Professor Sumner called attention to the importance of an understanding of frontier or pioneer conditions in the study of American politics. "Some of our worst political abuses," he said, "come from transferring to our now large and crowded cities maxims and usages which were convenient and harmless in backwoods country towns." This is no less true of our most serious legal abuses. It must be remembered that our judicial organization and the great body of our legal institutions and common law are the work of the last quarter of the eighteenth century and the first half of the nineteenth century. For practical purposes American legal and judicial history begins after the Revolution. In colonial America the administration of justice was at first executive and legislative. American law reports begin at the end of the eighteenth century. The America for which seventeenth-century English legal institutions and eighteenth-century English law were received and made over was not at all the America in which those institutions and that law must function today. Our great cities and the social and legal problems to which they give rise are of the last half of the nineteenth century. Many are of the last quarter of that century. Our largest city now contains in three hundred and twenty-six square miles a larger and infinitely more diversified population than the whole thirteen States when the federal judicial organization which has served so generally as a model was adopted. The last State of the Union was opened to settlement by the white man within a generation. Except perhaps in the narrow fringe of original settlements along the Atlantic coast, rural conditions prevailed everywhere within the memory of those now living, and in any part of the country one need do little more than scratch the surface in order to come upon the pioneer. Thus our law and our legal institutions got the stamp of the pioneer while they were formative.<sup>1</sup>

<sup>1</sup> See R. W. Kelso, *History of Public Poor Relief in Massachusetts*.—Ed.



Our Anglo-American judicial and prosecuting organization, criminal law, and criminal procedure, as they grew up and took shape in the fore part of the last century, presuppose a homogeneous people, jealous of its rights, zealous to keep order, and in sympathy with institutions of government which it understands and in which it believes—a people which, in all matters of moment, will conform to the precepts of law when they are ascertained and made known, which may be relied upon to set the machinery of the law in motion of its own initiative when wrong has been done, and to enforce the law intelligently and steadfastly in the jury-box. In other words, they presuppose an American farming community of the first half of the nineteenth century. We are employing them to do justice in a heterogeneous, diversified, crowded city population, containing elements used to being trodden on by those in authority, ignorant of our institutions, at least in all but form, with good reason suspicious of government as they have known it, and hence often imbued with distrust of all government, loth to invoke legal machinery, of which they think in terms of the social conditions in another part of the world, and inclined to think of a jury trial as some sort of man hunt, not knowing the nature of the proceedings that have gone before nor appreciating the manifold guarantees by which at common law an accused person is assured every facility for a full defense.

### *The Administration of Criminal Justice in the First Half of the Nineteenth Century*

1. *The criminals and conditions of crime.* At the outset we must notice the different type of criminal and different conditions of crime for which our formative institutions were shaped. The occasional criminal, the criminal of passion, and the mentally defective, were the chief concern of the criminal law, and its task was to restrain them in a homogeneous community under pioneer or rural conditions, in a society little diversified economically and for the most part restrained already by deep religious conviction and strict moral training. So far as it was necessary to deal with vice it was the rough, virile vice of a vigorous stock that lived out-of-doors. Organized professional criminality on a large scale, operating over the whole country, was unknown. The occasional band of robbers or of cattle thieves could be dealt with by a sheriff and a posse. Commercialized vice on a large



scale, extending its operations over many localities, was unknown. Large cities with a diversified, shifting industrial population, with extreme divergencies of economic condition, with rapid and easy communications with other like centers, with a population moving back and forth daily in swarms to a business center and crowding a great volume of business into a few hours, did not afford opportunities for specialized professional crime. Such conditions have come upon us slowly in some parts of the country, but with extreme rapidity in others, as in Cleveland. In either event they have come upon an administrative and judicial machinery made for rural communities and simply added to or patched from time to time to meet special emergencies. The professional criminal and his advisers have learned readily to use this machinery and to make devices intended to temper the application of criminal law to the occasional offender a means of escape for the habitual offender. Experience has shown this in all our cities.<sup>1</sup>

2. *Administrative machinery.* We inherited from England a medieval system of sheriffs, coroners, and constables, devised originally for a rural society and easily adapted to pioneer rural conditions. The town marshal was a constable with no civil functions and some added powers and duties. He went out of office with every political change. He kept order and did an occasional bit of detection in the event of a sensational crime. A police force, as we now know it, is an institution of the nineteenth century, and, unhappily, our police organization and administration have been affected to no small extent by ideas derived from the older, pre-urban régime. What is particularly noticeable about the nineteenth-century Anglo-American administrative system is its lack of organization, decentralized responsibility, and abundant facilities for obstruction in comparison with means for effective achievement of results. As a rule, none of these officials was answerable to any one but the electorate. He coöperated with other officials or thwarted them as his fancy or the exigencies of politics might dictate. Each locality had its own administrative officer, acting on his own judgment, and responsible to no superior, and the execution or non-execution of laws therein was its own affair.

This decentralization, division of power, and hampering of administration was part of the system of checks and balances to which we

<sup>1</sup> Pound and Frankfurter, *Criminal Justice in Cleveland*, pp. 91, 93, and 95.

pinned our faith in the last century. It has been said that our institutions were the work of men who believed in original sin and were unwilling to leave open any door for the intrinsically sinful official which they could possibly close. To this Puritan jealousy of administration we added a pioneer jealousy of administration. "The unthinking sons of the sagebrush," says Owen Wister, "ill tolerate anything which stands for discipline, good order, and obedience; and the man who lets another command him they despise." Such has always been the spirit of the pioneer, and institutions shaped by that spirit are well adapted to a pioneer society. But in a crowded urban society, in holding down the potentially sinful administrative official we give the actually sinful professional criminal his opportunity, and in insuring a latitude of free individual self-assertion beyond what they require for the upright, we give a dangerous scope to the corrupt. The local conditions of cities demand centralization and organization of administrative agencies, coördination of responsibility with power, and reliance upon personality rather than upon checks and balances as emphatically as a pioneer, rural community demands decentralization, division of power, independent magistracies, and checks upon administration.

3. *English criminal law at the Revolution.* When, at the end of the eighteenth century and in the early nineteenth century, we began to build an American criminal law with received English materials, the memory of the contests between courts and crown in seventeenth-century England, of the abuse of prosecutions by Stuart kings, and of the extent to which criminal law might be used as an agency of religious persecution and political subjection, was still fresh. Hence a hundred years ago the problem seemed to be how to hold down the administration of punitive justice and protect the individual from oppression under the guise thereof, rather than how to make criminal law an effective agency for securing social interests. English criminal law had grown out of royal regulations of summary local self-redress and had been developed by judicial experience to meet violent crimes in an age of force and violence. Later the necessities of more civilized times had led to the development in the court of Star Chamber of what is now the common law as to misdemeanors. Thus one part of the English law of crimes as we found it at the Revolution was harsh and brutal, as befitted a law made to put down murder by violence, rob-

bery, rape, and cattle-stealing in a rough and ready community. The legislation in New York at the end of the eighteenth century which abolished the death penalty for felonies other than murder, and the English legislation of the legislative reform movement in the fore part of the nineteenth century, was chiefly concerned in doing away with the brutalities of the old law as to felonies. Another part of the English law of crimes at the Revolution seemed to involve dangerous magisterial discretion, as might have been expected of a body of law made in the council of Tudor and Stuart kings in an age of absolute government and extreme theories of royal prerogative. Puritan jealousy of subordination and administration, pioneer self-reliance, and inherited fear of political oppression by governmental agencies, since the colonists had had experience of the close connection of law with politics, were decisive of our shaping of this body of criminal law at the time when it was formative. In particular these things had three important results:

1. They led nineteenth-century American law to exaggerate the complicated, expensive, and time-consuming machinery of a common-law prosecution, lest some safeguard of individual liberty be overlooked.

2. They led to curtailings of the power of the judge to control the trial and hold the jury to its province, and to conferring of excessive power upon juries. These had their origin in colonial America, before true courts and judicial justice had developed, when juries were a needed check upon the executive justice of royal governors. They were added to through the need of checks upon royal judges. They were carried still further during the hostility to courts and lawyers and English legal institutions that prevailed immediately after the Revolution. Finally, they got their fullest development in frontier communities in the nineteenth century.

3. Both had the result of enfeebling the administration of criminal law. But these enfeeblings did not work much evil in a time when crime was relatively rare and abnormal; when the community did not require the swift-moving punitive justice adjusted to the task of enforcing a voluminous criminal code against a multitude of offenders which we demand today. Unfortunately, when the conditions that call for a more effective criminal justice became acute, we had ceased to take the same interest in criminal law that had been taken early in the



nineteenth century, when the leaders of the legal profession achieved their most conspicuous triumphs in criminal cases, and in consequence there has been no such systematic expert consideration of how to give efficacy to criminal justice in the present as was devoted to the work of enfeebling it in the past.

4. *English criminal procedure at the Revolution.* As the substantive criminal law had been brutal in the spirit of a substitute for lynch law, so English criminal procedure had been brutal and unfair to the accused. The trial methods of seventeenth-century prosecutors and the conduct of seventeenth-century trial judges, imitated by some royal judges in eighteenth-century America, led to stringent provisions in our bills of rights for the protection of accused persons and for securing them a fair trial. Except in political prosecutions, criminal prosecutions in the English polity were privately conducted. Also there was no review of convictions except for error on the face of the formal record and no granting of new trials to the convicted. Both of these conditions were changed in American law. A local public prosecutor was set up in each locality. The practice of review of administrative convictions before colonial legislatures and granting of new trials by colonial legislatures after judicial judgments made us familiar with review of criminal proceedings and led to a system of criminal appellate procedure. But the local prosecutor, the model whereof is the federal district attorney of the Judiciary Act of 1789, while suggested by the French *procureur du roi*, was not made part of an organized administrative system, but instead was given complete independence as a sort of attorney general in petto. In the federal system a certain control is had through the federal department of justice. In the States there is no such power. The local prosecutor and the attorney general may coöperate or may ignore each other or may clash as their dispositions or their politics lead them. The wide powers of local prosecutors, the lack of control over them, and the extent to which they may determine the whole course of law enforcement, without leaving a tangible record of what they have done and what they have undone, are beginning to attract attention.

No officer in our large cities has so much real power with so little ostensible power. The easiest path to improper influence upon criminal justice is through the office of the public prosecutor, and there is much evidence that professional defenders of professional criminals



and professional extortioners from occasional offenders in more than one American city understand this thoroughly. In a rural pioneer community with a small local bar, a small criminal docket, and only occasional terms of court, the public prosecutor had relatively little power. Grand juries had ample time to deliberate and did their work critically. What the public prosecutor did or failed to do was evident to and subject to criticism by alert and expert critics actively engaged in the courts. In the modern city, with congested criminal dockets, a crowded bar, the leaders of which seldom or never go into the criminal courts, and continuous sessions of court almost throughout the year, he is watched only by alert and expert professional defenders who often know the game of criminal justice better than he does. There is no effective check upon him. The series of mitigating agencies which were introduced into our criminal justice under different conditions offer abundant opportunity to cover up his tracks, and the pressure of judicial business makes the common-law check of judicial approval, when required, a perfunctory ceremony. The chief pressure upon him is political, and this sort of pressure is easily exerted by politician-criminal-law practitioners as a means of defeating enforcement of the law. No feature of our administration of criminal justice calls for thoroughgoing study so urgently as the public prosecutor.<sup>1</sup>

Review of convictions and granting of new trials by appellate courts were called for especially in America because of the need for judicial finding and shaping of the law which we were receiving from England and adapting to our conditions. When James Kent went upon the bench in New York in 1791 he tells us that there were no State law reports and nobody knew what was the law. Later there was need of judicial interpretation of the criminal codes which became common in the United States after the model of the French penal code of 1810. But this institution had the effect of enfeebling the administration of criminal law in that settlement of the law was then more important than punishment of the individual offender. Thus, in the second half of the nineteenth century, when the law had become settled, new trials were granted constantly on academic legal points although no doubt of guilt could exist. There has been a marked change in this respect

<sup>1</sup> Mr. Bettman's pioneer study of a prosecutor's office in action in an urban community should be pondered by every thoughtful lawyer. *Criminal Justice in Cleveland*, Part II.

in the past two decades. Yet the function of finding the law for a pioneer community whose criminal law is formative, as the real function of a criminal appellate tribunal rather than reviewing guilt or innocence of the accused, has impressed its spirit upon our whole system of review of convictions. How much it still affects our administration of justice may be seen by comparing the reported decisions of an American supreme court with those of the English Court of Criminal Appeal.

It will have been noted that all three of our American innovations upon seventeenth-century English criminal procedure were in the direction of mitigation and afforded additional incidental opportunities for the guilty to escape. Accordingly, as English criminal justice is notoriously more feeble than criminal justice upon the Continent, American criminal justice is more feeble than English.<sup>1</sup>

5. *The system of courts at the Revolution.* English judicial organization at the time of the Revolution was too arbitrary and involved to be taken as a model to be followed in detail in this country. Yet by eliminating the more obvious anomalies, a general outline could be perceived which was the model of our system of courts. For the purposes of criminal justice, beginning at the bottom, this was: (1) Local peace magistrates and local inferior courts with jurisdiction to examine and bind over for felonies and a petty jurisdiction over misdemeanors, subject to appeal to and retrial in the court of general jurisdiction; (2) a central court of general jurisdiction at law and over crimes, with provision for local trial of causes at circuit; (3) a supreme court of review. The defect in that scheme that appealed to the formative period of judicial organization was not its lack of unity, the multiplicity of courts or the double appeals, but its over-centralization for the needs of a sparsely settled community that sought to bring justice to every man. In a community of long distances in a time of slow communication and expensive travel central courts entailed intolerable expense upon litigants. Judicial organizations were devised with a view to bringing justice to every man's door. But the model was English at a time when English judicial organization was at its worst. For in the eighteenth century the English had not yet overhauled their system of courts. It had grown up by successive creation or evolution of new courts when new types of work arose or old tribunals ceased to

<sup>1</sup>What this means to the habitual offender is suggested by the statistics in chap. i of the report on Police Administration, in *Criminal Justice in Cleveland*.

function efficiently, so that some seventy-four courts existed, seventeen of which did the work now done in England by three. Thus we took an archaic system for our model, and the circumstances of the time in which our courts were organized tended to foster a policy of multiplication. As a result, we go on creating new courts at a time when the conditions of our large cities call for unification.

A contributing factor in this decentralized judicial organization was the need of judicial ascertainment of the law in a new community already adverted to. We had to devise a body of substantive criminal law in a time of rapid expansion. For more than a century the main energies of our judicial system were devoted to the working out of a consistent, logical, minutely precise body of precedents. To us the important part of the system was not the trial judge who tried and sentenced the accused, but the judge of the appellate court who availed himself of the occasion given by the prosecution to develop the law. We judged the judicial system rather by the written opinions filed in its highest court than by the efficient functioning of its prosecuting machinery. Our eyes were fixed upon the task of providing rules. It is no wonder that our failure to devote equal attention to application and enforcement of rules too often allowed the machinery designed to give effect to the rules to defeat the purposes of law in their actual operation. If one reads the report upon the courts in Cleveland with this historical background in mind, he will understand many things. The rise of special problems, such as those which come before juvenile courts and our urban courts of domestic relations, the great increase in police regulations, especially of traffic regulations since the advent of the automobile, the increased opportunities for professional crime and consequent large-scale organization of criminal enterprises, the presence in our cities of large groups of aliens, as well as of citizens of foreign birth and no little race solidarity, the resulting colonies in our cities of large numbers of persons not trained in the ideas which our legal polity presupposes, and the complex economic organization, with its incidental results of recurring times of unemployment and continual inflow and outflow of laborers—all these things affect court organization as well as police and prosecutor. They call for strong peace magistrates, well organized and provided with ample facilities. They call for a single court of criminal jurisdiction, in which the steps in a prosecution may be reduced to a minimum—a court well organ-



ized and continually in session. All this is very far from the system we inherited from the nineteenth century.

6. *The bench at the Revolution and in the nineteenth century.* As has been said, the administration of justice in colonial America was at first executive and legislative, rather than judicial. Legislative new trials persisted until the end of the eighteenth century, legislative appellate jurisdiction until the middle of the nineteenth century, and legislative divorces until the last quarter of the nineteenth century. Judicial justice was only just establishing itself at the time of the Revolution, and came to its own in the last decades of the eighteenth century and the beginning of the nineteenth. In the colonies the courts were manned by laymen, with the occasional exception of the chief justice, and in some of the colonies the royal chief justices did not so conduct themselves as to inspire confidence in lawyers as judicial magistrates. At the time of the Revolution it was beginning to be thought advisable to have judges learned in the law. But many of the States relied upon judges without legal training until well into the nineteenth century. Thus, two of the three justices in New Hampshire after the Revolution were laymen, and the Chief Justice of Rhode Island from 1819 to 1826 was a farmer.

Three factors brought about a wholly different attitude toward the bench from that which has obtained in England since 1688. Here, as in so many cases in American legal and political institutions, we derive from seventeenth-century rather than from eighteenth-century England. The politics-ridden bench of the Stuarts rather than the independent judiciary of modern England was the original model. The federal constitution and the federal judiciary act of 1789 set a better model and, on the whole, the federal courts have kept to the best traditions of a common-law bench. Also the appointive State courts, with permanent tenure, at the end of the eighteenth century and in the first half of the nineteenth century, were manned by judges of the highest type, who made that period a classical one in the history of Anglo-American law. But the hostility to courts and lawyers due to economic causes after the Revolution, and the radical democratic movement of the next generation, with its leveling tendencies, its tendency to carry out abstract political theory to its logical conclusions, and its cult of incompetency, which is so often a by-product of democracy, combined to work a gradual change. Hostility to Fed-



eralist judges, some of whom, it must be admitted, followed the example of political judges in England too closely, had much to do with the first experiments with an elective bench. Thus a complete change took place in the mode of choice and tenure of judges which became general after 1850.

In rural pioneer America the elective short-term judge did not work badly, although it is significant that the great names which are the ornaments of American judicial history belong, with scarcely an exception, to the era of appointed judges with permanent tenure. Today judges in rural jurisdictions chosen at the polls and for relatively short terms are, on the whole, reasonably satisfactory. But the elected short term bench has not achieved what its adherents expected of it, and has achieved some other things which have a bad influence upon the administration of justice.

It may be shown from the debates in constitutional conventions by which elective judges were provided for that the advocates of that system expected to put the judges into the closest touch with the people, to make them responsive to public opinion, to subject them to the pressure of popular criticism, and to liberalize the administration of justice. English law, which we were receiving and making over, was looked upon with suspicion by a large part of the community and it was thought that a permanent judiciary was over-technical. This feeling had some justification in the obstinacy with which some strong judges adhered to English rules and practices simply as such, and in the impossibility of administering justice in the nineteenth century by the formal, involved, artificial common-law procedure of the eighteenth century. But what the new system of choosing judges actually did was to subject the bench to professional political pressure, to make judges responsive to political considerations rather than to public opinion, and, in the long run, to insure at most a mediocre bench which has proved more narrowly technical and, on the whole, less liberal in practice than appointed judges with permanent tenure in the few jurisdictions which retained that system. On the other hand, the judges elected for short terms soon lost effective control over the administration of justice, and common-law traditions of legal proceeding became seriously impaired. Lack of control over the trial bar on the part of judges who cannot afford to antagonize and cannot insist upon expedition and high ethical forensic standards of conduct without

imperiling their positions is a chief cause of the unnecessary continuances and postponements, the difficulties in obtaining juries, the wranglings of counsel, and the ill treatment of witnesses which have cast discredit upon American criminal trials. It is significant that these things are almost unknown in jurisdictions in which judicial tenure is permanent and secure.

Moreover, the putting of the bench into politics and the modes of thought of the pioneer resulted in breaking down the common-law standards of decorum and of judicial propriety. How far this decadence of dignity and decorum may go is strikingly illustrated in the report on Criminal Courts. The habitual presence of the higher type of lawyer in the civil courts has prevented such things as are of common occurrence in inferior criminal tribunals. But the judicial Bar-num and even the judicial mountebank are well-known characters in most American jurisdictions today, and they are fostered by a system under which, in the large city, a magistrate must keep in the public eye in order to hold his place. Even more serious is the careless, slipshod despatch of business which develops in courts conducted without regard for decorum.<sup>1</sup> The nadir is reached when campaign funds for judges are raised by subscription from those who practice or have litigation before them.

That the public should see and feel that justice is done is scarcely less important than the actual doing of justice. Order, decorum, and judicial dignity, in fact, promote the despatch of business. More than this, they promote respect for law and confidence in the work of the courts. No one should wonder at the prevalence of perjury in courts so conducted as to make the administration of oaths and the giving of testimony perfunctory acts, done offhand in the midst of Babel. No one should wonder at the lack of public confidence in the administration of justice by courts which appear to be conducted by whispered confidential communications with politicians and criminal-law practitioners of doubtful repute, rather than by solemn public proceedings in open court. All these things are natural results of putting the bench into politics under the conditions of the modern city. One of the chief items in any program of improvement must be to free the court-rooms

<sup>1</sup> A method which lends itself to such things as are described in chap. iii of the report on Prosecution, and chap. v of the report on Criminal Courts, in *Criminal Justice in Cleveland*.

of our lower tribunals from the atmosphere of crudity and coarseness given them by the "Jefferson Brick" era of American politics, confirmed in them by the pioneer, and accentuated by the press of work, mixed population, and crowd of low-grade lawyers in the large city.

7. *The bar at and after the Revolution.* At the Revolution the bar was hardly more than beginning in this country. The colonies had little need of lawyers until after the middle of the eighteenth century. With the rise of judicial justice administered by courts in place of executive justice and legislative justice which prevailed during the greater part of the colonial period, a tendency to go to England for legal education began to appear, and there were a few good lawyers in more than one colony at the Revolution. After the Revolution law and lawyers were in much disfavor; the law, because it could not escape the odium of its English origin in the period of bitter feelings after the war, lawyers, because they alone seemed to thrive in the economic disorganization and disturbed conditions that followed peace. These circumstances and the radical democratic notions of the Jeffersonian era determined our professional organization.

In England, as now, the legal profession was organized in two branches. The upper branch, barristers or counselors, were alone eligible for judicial office and had exclusive exercise of the function of advocacy. This branch was well organized in societies coming down from the Middle Ages, had high professional traditions, professional discipline, control of admission to its ranks, and a decayed system of legal education which, nevertheless, was capable of being modernized and made effective. The lower branch, attorneys, solicitors, did the work of client-caretaking and acted as agents for their clients in litigation. Although some American jurisdictions made a distinction between counselors and attorneys, it soon came to little in practice, and "attorney and counselor" became the American rule. But the attorney furnished the model rather than the counselor. The profession was not organized in any real sense. As in the case of attorneys and solicitors in England, each court had its roll of practitioners, there was no professional discipline, the power of the courts to remove from the roll was exercised in flagrant cases only, and the training was wholly by apprenticeship. Thus the bar was largely deprofessionalized. In rural circuits the close daily contact of a small bar, each well known to his fellows, served to maintain traditional professional



standards. But with the obsolescence of the practice of going circuit and the rise of large urban bars, containing numbers who are wholly unknown to their fellow practitioners, it ceased to be possible to keep up traditional standards in this way. Gradually also a differentiation took place and three well-defined groups became set off from the main body of the bar, namely, a well-educated, well-trained stratum at the top, an uneducated, untrained, or ill-trained stratum at the bottom, and a small group of none too scrupulous politician-lawyers. The practice of criminal law came to be almost exclusively the domain of the two last.

Readers of English fiction of the fore part of the last century will remember the condition of the lower branch of the profession in England at that time as there portrayed. Sampson Brass, Dodson & Fogg, and Quirk, Gammon & Snap are types that we recognize perfectly today. In England incorporation of the lower branch of the profession, with the consequent introduction of discipline, professional feeling, and requirements of education and professional training, have effected a reform. We have moved more slowly. In the last quarter of the nineteenth century the rise of bar associations was the beginning of better things. These associations have done much for professional organization, professional ethics, and professional discipline. But they are voluntary organizations, and it has happened in some cities, and may happen anywhere, that the lower strata of the bar, seeing the advantages of voluntary organization, have formed organizations and exercised a sinister influence upon the administration of justice.

Three stages may be perceived in the development of the American bar. The first stage is marked by the leadership of the trial lawyer. The great achievements of the bar were in the forum, and the most conspicuous success was success before juries in the trial of criminal cases. The bench and the legislature were recruited from the trial bar. The law was largely fashioned to be a body of rules for use in the trial of causes. This stage lasted until the Civil War and still persists in some rural communities. In a second stage leadership passed to the railroad lawyer. The proof of professional success was to represent a railroad company. The leaders of the bar were permanently employed as defenders in civil causes and their energies, their ingenuity, and their learning were exercised in defeating or thwarting those who sought relief against public service companies in the courts.



But where the bench was elective, because of popular suspicion of those companies, judges and legislators were seldom chosen from these leaders. Hence criminal law became the almost exclusive field of the lower stratum of the bar, and the recognized leaders in ability and learning ceased to be the official leaders as judges, prosecutors, and lawmakers. Today leadership seems to have passed to the client-caretaker. The office of a leader of the bar is a huge business organization. Its function is to advise, to organize, to reorganize, and direct business enterprises, to point out dangers and mark safe channels and chart reefs for the business adventurer, and in our older communities to act, as one might say, as a steward for the absentee owners of our industries. The actual administration of justice in the courts interests him only as it discloses reefs or bars or currents to be avoided by the pilot of business men. Thus the leaders of the bar in the cities are coming to be divorced not only from the administration of criminal justice, but from the whole work of the courts, and the most effective check upon judicial administration of justice is ceasing to be operative.

It may be conceded that the economic causes which have turned the energies of the ablest and best trained in the profession into client-caretaking are inexorable, and that we may not hope to divert the leaders to less remunerative work and work of less magnitude with respect to the economic interests involved. But it does not follow that those who practise chiefly in the courts, and especially those who do the bulk of the work in criminal cases, should be uneducated, ill trained, and undisciplined.

Corporate organization of the bar, as at common law, and as both branches of the legal profession are now organized in England, and proper educational standards, both preliminary and professional, are items of the first moment in any plan for improving the administration of justice in our large cities. In such cities there must be many lawyers of foreign birth or foreign parentage. To confine the practice of law to any group, racial or linguistic or economic, would be to exclude other groups from their just share in making, interpreting, and applying the law, and thus to deprive them of their just share in a polity which is primarily legal. But it is vital that these lawyers should know the spirit of our polity; and that is the spirit of our common law. The mere rule-of-thumb training in local law and procedure or in meager generalities of definition and abstract principle which most

of them now get in night law schools gives no adequate conception of our law nor of our legal institutions. However good their intentions, they cannot use the machinery of a common-law prosecution intelligently with such training, and it is no wonder that our legal system functions badly in their hands.<sup>1</sup>

8. *Penal treatment at the end of the eighteenth century.* Modern criminal science begins in the second half of the eighteenth century, after the classical treatise of Beccaria on crimes and punishments. But the movement for a rational and humane penal treatment which that treatise began did not affect our law till the end of the eighteenth century, when legislation began to provide imprisonment rather than death as a punishment for all but a few felonies. Thus our penal treatment was grafted on a system that proceeded on radically different ideas. The jail system, inherited from England, did not work badly in small country county-seats in the fore part of the nineteenth century, but became intolerable in the large city of the present century. The American Prison Congress was not organized till 1870, and the American Institute of Criminal Law and Criminology not until 1910. In other words, our system of penal treatment, experimental in its inception and grafted on a bad system, has had not much more than a century in which to develop, has been studied scientifically for not much more than a generation, and before it was much more than worked out for the conditions of agricultural America has had to be applied, as well as we might, to the predominantly urban America of today. These facts explain much.

### *The Problems of Criminal Justice in the American City of Today*

1. *Reshaping of the substantive criminal law.* From the foregoing discussion it will have been seen that before our criminal justice may function satisfactorily the chaotic, internally inconsistent, to a large extent anachronistic, condition of our substantive criminal law must be taken in hand. Both the report on Prosecution and the report on the Criminal Courts bring out the relative disproportion in the time devoted to civil as compared with criminal litigation. It is not that

<sup>1</sup> Chap. iii of the report on Prosecution, in *Criminal Justice in Cleveland*, disclosing methods at variance not only with justice, but with the whole spirit of our institutions, should be read with these things in mind.

the former receives too much judicial attention, but that we have acquired a habit of neglecting the latter. This is true no less of the substance of the law. We have made great strides in the civil side of the law in a generation. Much has been done in civil procedure in the last two decades. But criminal law has stood still, and with a few notable exceptions in one or two localities criminal procedure remains what it was fifty years ago. Thus the neglect of the criminal law by the leaders of the bar, reflected in neglect of it in our law schools, bears fruit in a backward condition which is full of advantage to the law breaker and to those who make their livelihood by representing him. What we have to do is nothing less than to reshape the substantive criminal law so as to maintain the general security and the security of social institutions, and at the same time maintain the social interest in the human life of every individual, under the circumstances of the modern city; and we must do this upon the basis of traditional rules and principles in which the latter was chiefly regarded, and yet were warped in their application by those who regarded only the former.

This is too large a subject for the city. As things are it calls for nothing less than a ministry of justice, at least in each of our larger States; for our so-called departments of justice are but offices for legal advice to State officers, for representation of the State in its civil litigation, and for advocacy in the courts of review in criminal causes. In the federal government the Department of Justice is more. There it is a well-organized prosecuting bureau. But nowhere is it organized to study the functioning of our legal institutions, the application and enforcement of law, the cases in which and reasons for which it fails to do justice or to do complete justice, the new situations which arise continually and the means of meeting them, what legislation achieves its purpose and what not and why, and thus to give expert and intelligent guidance to those who frame and those who administer our laws. In the rural, agricultural society of the past, the judiciary committees of the two houses of the legislature could do efficiently so much of this as was needed. Today, even if our crowded legislative sessions allowed the time, no legislative committee is competent to [do] the highly specialized work required. In consequence, commissions are provided from time to time to study particular subjects. But their work is not coördinated, there is no continuity in what they do nor in what successive legislatures do, and the whole process is wasteful,



expensive, and ineffective. A ministry of justice in the foregoing sense was proposed by Jeremy Bentham during the English legislative reform movement of the last century. It was approved by the Conference of Bar Association Delegates at the meeting of the American Bar Association in 1917. It was recommended in 1918 by a Parliamentary Commission headed by Lord Haldane as one of the chief items in a plan for reconstruction of the British administrative system.<sup>1</sup> It deserves to be kept in mind by American lawyers as one of the things to be provided in the inevitable reconstruction of our administrative system in a country in which the center of gravity has definitely shifted to the city.

2. *Organization of the administration of justice.* It is no less urgent, and more immediately practicable, to organize the administration of justice as a whole and in all its branches, to prune the accumulation of checks and mitigating agencies which discourage prosecuting witnesses and afford opportunity of escape to the guilty without profiting the innocent (see, for example, the manner in which preliminary examinations are conducted in the Municipal Court, as disclosed in the report on Prosecution), to coördinate responsibility and power, putting both in a few conspicuous officials charged with authority to supervise and direct and plan and enforce their policies, and with responsibility for the due functioning of criminal justice, and to correlate the judicial and administrative agencies, so that, instead of acting independently, and sometimes in conflict, they will operate with one known policy in all things and will not be able to shift responsibility from one to the other or let it fall down between them, as in the Raleigh prosecution. Only in this way is it possible to insure an efficient machine to dispose of the great volume of prosecution required in the modern city and enforce the great mass of police regulation demanded by the conditions of urban life.

Specifically, three points are to be urged:

a. *Unification of courts.* The system of courts should be unified. An administrative head should be provided with large powers of organizing judicial business, of systematizing the assignment of cases to judges and judges to types of work, of applying the judicial force where the exigencies of the work demand, and of applying it upon

<sup>1</sup> See Judge Cardozo's "Ministry of Justice," in *Harvard Law Review*, Vol. XXXV, p. 113.



that work to the best advantage. Thus, in place of rotation of judges dictated by political exigencies, the personnel of the bench would be employed systematically and intelligently, as the size and importance of the work demand. Also he should have power, in connection with a council of judges, to initiate and determine policies so that the unseemly spectacle of two judges of coördinate jurisdiction applying the same law in two wholly different ways in two adjoining rooms shall come to an end, and he should be responsible for the due functioning of the judicial system in all these respects.<sup>1</sup>

*b. Organization of the prosecuting system.* The prosecuting system should be unified. The administrative head of the system should have full power to control and responsibility for the acts of his subordinates. He should be required to keep proper records of all that goes on in the course of a prosecution from the beginning, with recorded reasons for his action in types of proceeding where the law, made for simpler conditions, now requires what has become a perfunctory approval by the court. He should be a part of an organized general prosecuting system of the State, not a wholly independent functionary. Note, for example, in the report on Prosecution the extent to which the public prosecutor may, if he chooses, neglect to assist the court of review with proper briefs or arguments. No publicity attends his neglect of that duty, and he has it in his power to present the State's side of a criminal appeal or not, wholly as he likes. In the same way he may coöperate with or operate independently or even thwart the police, and they are in a like position with respect to him. Criminal investigation and preparation of causes for trial have reached a high degree of development. But our prosecuting system is not adapted to the one, and except in sensational cases, its methods with respect to the other are usually crude in comparison with those employed in civil litigation. If nothing else were to be considered, the mere waste of energy involved in an unorganized prosecuting system ought not to be tolerated in view of the volume of criminal business in the courts of a modern city. To no small extent the effectiveness of English criminal justice is due to the centralized administrative supervision exercised by the Director of Public Prosecutions. His vigilant scrutiny of what is done and what is not done by local prosecuting agencies has no parallel in our State prosecuting organization.

<sup>1</sup> See the files of the *Journal of the American Judicature Society*.—Ed.

*c. Organization of administrative agencies.* All administrative agencies, including the work now done in connection with the administration of justice by sheriffs, coroners, clerks, bailiffs, and probation officers, should be unified and organized under a responsible head, put in proper relation to the head of the judicial system, so as to eliminate friction and insure uniform policies in judicial and administrative action. This administrative head should have the power to determine the details of organization as circumstances require, to systematize and supervise, to initiate and enforce policies, and to set up such technical and expert adjuncts to the court as the business before it may require. He should be responsible for the proper functioning of this part of the administration of justice. He could easily save enough by proper organization and improved administrative methods to justify his position on that score alone. If for no other reasons, organization of the administrative agencies of our judicial system is demanded by considerations of expense. The cost of administering criminal justice in the modern city by methods devised for wholly different conditions precludes doing many things as they should be done, while wasting money in doing other things that need not be done, or in doing them in clumsy and expensive fashion. The enormous sums of money which we spend each year in the judicial administration of justice and its administrative incidents must eventually invite scrutiny of the mode in which those sums are employed. Through the fault of no person, but because of the system made for other times and different conditions, they are not employed to the best advantage. Nor can they be so long as city and county administration of justice go on parallel and independent in the same urban area, overlapping in many things, duplicating machinery unnecessarily, and without effective correlation of activities. Other functions of government are requiring and will continue to require increased expenditures and exacting taxation. Every source of expense that competes with them must justify itself by economy and efficiency. Here as elsewhere these things are not to be had through a decentralized congeries of independent functionaries, but by organization, system, supervision, and concentrated responsible authority.

3. *Adequate provision for petty prosecutions.* Comparison of the facilities provided for and time spent upon small civil causes as compared with small criminal causes calls for serious reflection. The

statistics on this head in the report on Prosecution and the report on Criminal Courts may be duplicated in almost any metropolitan area, and are a reproach to American administration of justice. It is at this point that the administration of criminal justice touches immediately the greatest number of people. It is at this point that the great mass of an urban population, whose experience of law is too likely to have been only an experience of arbitrary discretion of police officers and off-hand action of magistrates, tempered by political influence, might be taught the spirit of our institutions and made to feel that the law was a living force for securing their interests. Such extra-legal proceedings as those by summons in the municipal prosecutor's office, proceedings with no warrant in law and hence no legal safeguards that may easily degenerate into violation of constitutional rights under color of legal authority, should give way to a proper administrative organization whereby the courts in our large cities could function legally as bureaus of justice. The legal profession as a whole has little interest in petty prosecutions. But for the very reason that these proceedings are in consequence withdrawn from the field of active scrutiny by the bulk of the profession our bar association should be zealous to see that adequate provision is made for them. Few of the leaders of the profession are aware of the actual situation, and when the facts are stated publicly, some of the best, most public-spirited, and most respected members of the bar are not unlikely to assume that such things cannot be true and to denounce those who reveal them as agitators or muck-rakers.

4. *Preventive methods.* Preventive justice is no less important than preventive medicine. If we think of the legal order in terms of social engineering, it must be evident that sanitary engineering is not the least important feature. Prevention at the source rather than penal treatment afterward must be a large item in dealing with crime. Cleveland is well awake to this, and has well-organized institutions for social work. But no survey would be complete that did not emphasize the importance of correlating these institutions and agencies with police, prosecution, judicial organization, and agencies of penal treatment. There ought to be no possibility of misunderstanding, friction, or cross-purposes. And this requires that the administrative agencies connected with the administration of justice be unified and organized under a responsible head.



5. *Justice in family relations.* Conditions of crowded urban life, periodical unemployment, shifting of labor from city to city, and economic pressure threaten the security of the social institutions of marriage and the family and call for special consideration in organizing the courts of our large cities. Administration of justice in relations of family life is difficult for two reasons: one is that it involves questions on the borderline between law and morals, where, from its very nature, law is least efficacious; the other is that proper judicial adjustment of controversies involving those relations calls for wide discretion and yet they involve matters more tender than any that can come before tribunals. Such questions must be dealt with as a whole, not piecemeal, partly in criminal prosecutions, partly in juvenile courts, partly in petty proceedings before magistrates, and partly in courts having jurisdiction to appoint guardians. They must be dealt with by strong judges with large experience and trained intuitions. Anything less is a denial of justice to the mass of the population which cannot afford protracted legal proceedings in many courts. Anything less is a menace to the most fundamental of social institutions. To achieve these things the courts and administrative agencies connected therewith must be unified so that causes may be disposed of as a whole, without repeated partial threshings over of the same straw in separate proceedings, and so that causes that call for strong judges may receive the treatment they deserve without regard to the sums of money involved.

6. *Unshackling of administration.* Above all, effective administration of criminal justice in the modern American city calls for an unshackling of administration from the bonds imposed when men who had little experience of popular government and much experience of royal government sought to make rules do the whole work of the legal order. The principle involved in the constitutional separation of powers is really no more than the principle involved in all specialization. Certain things which involve special training or special competency or special attention are done better by those who devote thereto their whole time or their whole attention for the time being. Hence if the officers of a court may best gather and study statistics of judicial administration to the end that such administration be improved; if they may best conduct psychological laboratories or psychopathological examinations or laboratories for the study of crim-



inals, there is really nothing in the nature of a court to prevent. There is no reason why the courts in metropolitan areas may not be so organized as to permit these things, although they are not needed or are less needed in rural areas and hence are not provided for therein. The nineteenth-century political idea of uniformity over geographic areas, thinking in feudal terms of soil rather than of human beings peopling the soil, is not applicable to States of today in which populations greater than those in whole States when this idea took root in our State constitutions are compressed within a few square miles of municipal jurisdiction. A unification of administrative agencies with power to adapt administration to the peculiar needs of particular localities must supersede rigid uniformity over areas laid out according to the exigencies of the map. Regulation of public utilities, factory inspection, tenement house inspection, building laws, and a score of things of the sort have accustomed us to administrative boards and commissions with wide powers to organize their business and large administrative discretion. There are no such checks upon these boards and commissions as are operative in the case of courts. And yet, for historical reasons, we are loth to confer upon judicial administrative agencies the latitude which we freely concede to newly created executive agencies. Undoubtedly one of the tasks of American law today is to work out an adequate system of administrative law. But there is no reason to suppose that judicial administration is not as adequate to this task as executive administration.

### *State and City*

For the larger part of what it needs in the way of machinery to cope with crime the city must depend upon action by the State legislature or even amendments of the State constitution. The State may do anything not prohibited by the federal constitution. The State legislature may do anything not prohibited by federal and State constitutions. The city may do only what the State empowers it to do. Hence in order to adapt the institutions devised for rural conditions of the past to the rapidly changing urban conditions of today, it must first induce action by those who live under quite different conditions, to whom the methods and agencies developed for rural communities of the last century seem entirely adequate. When there are several large cities in a

State, each with its own problems, and a large agricultural population with preponderant political power, proper provision for the special needs of criminal justice in the city becomes a matter of much difficulty. Here again a unified judicial organization for the whole State and organization of the administrative agencies of justice for the whole State, under a head responsible for insuring an adequate functioning of the legal system in each locality, and clothed with power to make the proper adjustments to that end, may bring about the right compromises between urban and rural needs from time to time as occasion requires, and preserve the balance as changes take place, without disturbance of the fundamental organization.

## CHAPTER XXXVI

### PENAL AND REFORMATORY INSTITUTIONS

#### 125. THE ORIGINS OF THE MODERN PRISON<sup>1</sup>

While prisons, as places for the holding of human beings in confinement, have existed since the days of primitive cannibalism, the prison, as a distinct institution for the confinement of persons convicted of crime, is an institution which has developed almost entirely within the last hundred and forty years. Down to about 1780, in both Europe and America, the jails or prisons existed primarily for the confinement of heretics and debtors or for the safekeeping of those accused of crime pending their trial. Such as were convicted were normally sentenced either to corporal punishment, or, as became common after the colonial expansion began, to deportation.

The introduction of the notion of employing confinement within a prison, as the general method of punishing crime, was due to William Penn and the Quakers of West Jersey, who provided for a system of workhouses in the penal code they drew up in 1681. Four years later William Penn introduced the same system into his Pennsylvania colony. It is believed that Penn derived this novel practice, which he brought to West Jersey and Pennsylvania, from the English workhouse as employed in poor relief, and from his observation of the operation of the Dutch system of workhouses as applied to the treatment of youthful and aged paupers and vagrants. To this possible source of imitation there should, of course, be added the natural and inevitable tendency of any Quaker government to desire to avoid, as far as possible, the cruel and bloody types of corporal punishment then in vogue, and to substitute therefor a more humane method of treating the convicted offender. But, interesting as these early historic instances may

<sup>1</sup> By Harry Elmer Barnes, Ph.D., Professor of the History of Thought and Culture in Clark University. Adapted from "Some Leading Phases of the Evolution of Modern Penology," *Political Science Quarterly*, Vol. XXXVII, No. 2, pp. 257-266. Copyright, 1922, by the editors of the *Political Science Quarterly*.

be to the student, in neither colonial Jersey nor provincial Pennsylvania was this Quaker method of imprisonment employed with any degree of permanence or uniformity. Its only effect upon posterity was to furnish a respectable precedent to which Quakers could turn a century later when they were groping about to discover some method of improving the barbarous prevailing methods of treating the criminal.

The real beginning of the systematic introduction of imprisonment as the prevailing method of punishment of the delinquent came in the last quarter of the eighteenth century, being prepared by the moral revival led by Wesley and Whitfield, the humanitarianism of the English and American Quakers, and the progress of rational and enlightened jurisprudence in the works of Montesquieu, Beccaria, Blackstone, and Bentham. Between 1773 and 1791 John Howard not only did much to improve the condition of imprisoned debtors in England, but also made a very thorough study of similar conditions on the continent of Europe and brought back to England a vast amount of interesting penological information which served to interest and instruct his contemporaries. Twenty years after Howard's death a Quaker humanitarian, Elizabeth Gurney Fry, began her work among the horribly treated women prisoners in London. In this same generation following 1775 there were distinct advances in certain local English jails which definitely anticipated the modern prison system. Little could be done in England, however, to produce a prison system until, between 1815 and 1835, Romilly, Mackintosh, Peel, and Buxton had succeeded in having repealed the barbarous English criminal laws and in securing a substitution of imprisonment for corporal punishment or banishment as the most approved method of dealing with the criminal. In the period of the first Revolution, France also made certain marked advances towards substitutions of imprisonment for corporal punishment. Yet, in spite of these European advances which have been mentioned, and in spite of the earlier or contemporary progress made in the Papal prison at Rome and that of Ghent in Belgium, the real center from which the modern prison and its accompanying system of discipline and administration has spread was the system introduced in Philadelphia by the Quakers following 1776.

In 1776 the Philadelphia Friends formed an association, entitled the Philadelphia Society for Assisting Distressed Prisoners, for the purpose of relieving the conditions of the debtors and accused persons



confined in the jail at Third and High Streets. After the Revolutionary War this society was reorganized in the German School House at Philadelphia, as the Philadelphia Society for Alleviating the Miseries of Public Prisons. Between 1786 and 1795 the Society had secured the abolition of the barbarous criminal laws of Pennsylvania and the substitution of imprisonment for corporal punishment in the case of all crimes except murder. This necessitated the provision of a system of penal institutions which would make the confinement of the offender possible, and there was thus produced the modern prison. The Quakers derived their doctrines and reform proposals in part from the earlier precedents of Penn and his associates and in part from correspondence with Howard and other contemporary European reformers.

*The Pennsylvania system.* The Quakers in this manner not only originated the general practice of prison discipline, but they also brought into being a system of prison discipline which has had a tremendous influence upon the subsequent history of penal administration and of the theory of penology. Struck by the filth and debauchery which were then to be observed in all of the so-called congregate or promiscuous jails of the time, they conceived the notion that the prevention of further depravity through evil association, as well as the probable future reformation of the culprit, would be most surely obtained through the solitary confinement of the convict in an isolated cell, where he might in solitude and at his leisure contemplate the evils of his past life, and be thereby led to resolve "in the spiritual presence of his Maker" to reform his future conduct. To provide such a beneficent moral environment the Philadelphia reformers were able to persuade the Pennsylvania legislature to remodel the Walnut Street jail in 1790-1791, so as to permit of the solitary confinement of the worst types of offenders. With the growth of the population of the state it became necessary to provide more commodious penal institutions, and, in 1818-1821, laws were enacted authorizing the erection of two state penitentiaries on the system of solitary confinement. The Western Penitentiary was opened at Pittsburg in 1826, and the Eastern Penitentiary at Philadelphia in 1829. This Eastern, or Cherry Hill Penitentiary, immediately became the world's most famous penal institution, visited by prison reformers from every point of the Western World.

The originators and defenders of the system of solitary confinement alleged that it possessed the following virtues: the protection against possible moral contamination through evil association; the unusual invitation to self-examination and self-reproach in solitude; the impossibility of being visited by anyone except an officer, a clergyman, or a reformer; great ease of administration of the government and discipline; the possibility of an unusual degree of individuality in treatment; little need for disciplinary measures; the absence of any possibility of mutual recognition of prisoners after discharge; and the fact that the horrors of loneliness made the prisoners unusually eager to engage in productive labor, during which process they might be taught a useful trade, preparatory to their attaining freedom. But, whatever its incidental advantages, the element uniformly and most vigorously emphasized by the founders of the Pennsylvania system was the allegation that solitude was most certain to be productive of earnest self-examination and a consequent determination to reform.

Distinguished visitors from abroad came to view this new system of penal administration and to recommend with general success its adoption in their home countries. In the decade of the 1830's Sir William Crawford from England, Dr. N. H. Julius from Prussia, and Frédéric Auguste Demetz from France came to Philadelphia and recommended the immediate adoption of the Pennsylvania system in their respective countries. In America, however, the Pennsylvania system was much less popular than in Europe. In spite of temporary adoption in other states, most notably New Jersey and Rhode Island, the Pennsylvania system made little headway in the United States. It was even abandoned by the state of Pennsylvania in the Western Penitentiary in 1869 and in the Eastern Penitentiary in 1913, though as a matter of fact, it had practically ceased to exist in the Eastern Penitentiary half a century before it was legally and formally abandoned.

*The Auburn system.* The reason for the relative lack of popularity of the Pennsylvania system in America was primarily the rise in this country of another and a rival system of prison administration, namely, the Auburn system of combined isolation and association which, owing mainly to the indefatigable labors of Louis Dwight, came generally to dominate American penal administration until its popularity was threatened by the introduction of the Elmira system a half-century later.

In spite of the fact that the Auburn system became the great historical rival of the Pennsylvania system, it was in reality but a derivative or variant from the Pennsylvania type of prison administration. Imitating the precedent of Pennsylvania by substituting imprisonment for corporal punishment, New York state reformed its penal code in the last decade of the eighteenth century and thereby created the necessity for a system of prisons. The older institutions proved so unequal to the task of housing the larger number of prisoners confined under the new method of punishment that by 1810 the Governor had to pardon as many prisoners annually as were committed. The legislature, in 1816, authorized the building of a new prison at Auburn. Between 1817 and 1824 the system of discipline here enforced alternated between the old congregate system and the solitary or Pennsylvania system, but, by 1824, under the guidance of Elam Lynds, Gershom Powers, and John Cray, the Auburn system of solitary confinement by night and associated labor by day had come into existence. This type of discipline and administration was soon introduced in the new Sing Sing prison, and into the state prisons of Connecticut and Massachusetts at Wethersfield and Charlestown respectively.

This method of prison discipline and administration was alleged by its supporters to be superior to the Pennsylvania practice because of the greater cheapness of erecting a prison of the Auburn plan; its greater adaptability to the economic advantages of associated labor and mechanical methods of manufacturing; and the fact that it did not render the prisoner liable to what the exponents of the Auburn system regarded as the deleterious effects, both moral and physical, of complete solitude. It was believed that the Auburn practice of complete isolation at night and of silent association during the day was ample both to provoke moral reflection and to prevent contamination through evil association. But it is doubtful if the advantages, real and alleged, of the Auburn system would have been sufficient to secure its remarkable success had it not received the vigorous support of the greatest figure in early American prison reform, Louis Dwight, the active and alert secretary of the Prison Discipline Society of Boston. Possessing a firm conviction that the Auburn system was incomparably the best that human ingenuity had as yet devised, he gave unsparingly of his own energy and made what at times bordered on an unscrupulous use of the authority and prestige of his Society



in order to urge everywhere and always the adoption of the Auburn system. So well did his efforts succeed that for a half-century after 1830 the Auburn system of prison administration was practically identical with American penal institutions.

In spite of their great prestige and reputation and their undoubted historical significance in the evolution of penology, however, both the Pennsylvania and the Auburn systems must be regarded as important chiefly through having originated the modern prison. Neither marks more than the first crude step taken in the effort to render more humane and more scientific the treatment of the violator of the law. In spite of the exaggerated pretensions and claims of their supporters, both of these methods of prison administration lacked almost entirely the provision of those deeper moral, psychological, and social impulses and motives which must lie at the foundation of any effective reformation of the offender. There can be no doubt that whatever claims have been brought forward to the contrary, neither system actually advanced the cause of reformation to any degree comparable to the part that it played in carrying out the other conventional aims assigned to imprisonment, namely, social protection, revenge or retaliation, and deterrence. It is to that series of progressive reforms which culminated in the Elmira system that one must look for the first appearance of any even moderately successful mechanism designed to supply the chief impulses which are necessary if it is hoped to create any wide-spread determination to reform in the minds of any large number of prisoners.

*The Elmira Reformatory system.* In his two works, *The Penitentiary Systems of Europe and America* (1828) and *The Theory of Imprisonment* (1836), M. Charles Lucas had clearly taken the advanced position that a curative reformatory type of prison discipline ought to be substituted for the contemporary repressive prison system. It was a long time, however, before this aspiration was adequately realized. It was only achieved, and then imperfectly, in the Elmira Reformatory system introduced into New York State following 1870.

A number of significant currents of reform in penology converged in producing this system. An important element was contributed by the new methods of prison discipline introduced in the British penal colony in Australia. Captain Alexander Maconochie came to Norfolk Island in Australia in 1840, and was able to bring about a tremendous



improvement in penal methods by eliminating the old flat-time sentence and introducing the beginnings of commutation of sentence for good behavior. Every convict, according to the seriousness of his offense, instead of being sentenced to a given term of years, had a certain number of marks set against him which he had to redeem before he was liberated. These marks were to be earned by deportment, labor, and study, and the more rapidly they were acquired the more speedy the release.

At about the same time the notion of an indeterminate time sentence was originated and given popularity through the writings of Archbishop Whately of Dublin, the Scotchman George Combe, and especially the English reformers, Frederick and Matthew Davenport Hill. Its supplement, the famous parole system, while anticipated by a number of other reformers, was most systematically and effectively advocated by the French publicist, Bonneville de Marsangy. Maconochie's system of determining the period of incarceration upon the basis of the behavior of the convict was combined with the notion of the indeterminate sentence and parole in the famous Irish system of prison administration, which was introduced by Sir Walter Crofton in the decade following 1853. To these earlier progressive innovations he added the practice of classifying convicts in graded groups, through which each convict had to pass before obtaining his freedom on parole, his advancement being determined by his conduct.

The notion of productive and instructive prison labor, which goes back to the Pennsylvania Quakers, was also developed by a number of progressive penologists during the second quarter of the nineteenth century, especially by Montesinos in Spain and Obermaier in Bavaria.

All of these liberal and progressive innovations, which have been all too briefly and casually mentioned above, attracted the attention of the leading American reformers, most notably Theodore W. Dwight and E. C. Wines of the New York Prison Association, F. B. Sanborn of Concord, Massachusetts, Z. R. Brockway, Superintendent of the Detroit House of Correction, and Gaylord Hubbell, Warden of Sing Sing Prison. All of these men prepared able, vigorous, and widely read public reports or private monographs, urging the adoption of these advanced methods in the American prison system, but they were able only to secure the introduction of these innovations for the treatment of younger first offenders. A law authorizing the creation of

such an institution at Elmira, New York, was passed in 1869, and the institution was opened in 1877, with Mr. Brockway as its first superintendent. A decent preliminary approximation to the principle of the indeterminate sentence was secured, and the inmates were divided into classes or grades through which they might advance to ultimate parole by virtue of good conduct, if they did not desire to remain in the institution for the maximum sentence.

The great advance which the Irish and Elmira systems mark over Pennsylvania and Auburn systems was the fact that in these later types of penal discipline the term of incarceration was at least roughly made to depend upon the observable progress made by the prisoner on the road to ultimate reformation. It was, thus, a system which chiefly stressed reformation rather than either retaliation or deterrence. As far as its application in the United States is concerned, however, even this method of discipline possessed serious and grave defects. In the first place, it was scarcely at all introduced into the prisons which confined the adult offenders, thus not being applied to the great bulk of the prison population. In the second place, while it was based primarily upon the idea of effecting the reformation of the convicts, it failed signally to provide the right sort of psychological surroundings to expedite this process. The whole system of discipline was repressive, and varied from benevolent despotism, in the best instances, to tyrannical cruelty in the worst. There was little, if anything, done to introduce into the mind of the individual convict, or into the groups of the convicts generally, any sense of individual or collective responsibility for the conduct of the prison community, nor was any significant attempt made to provide any education in the elements of group conduct and the responsibilities of the citizen. There was little, if any, grasp of that fundamental fact which is basic in the newer penology, namely, that a prisoner can be fitted for a life of freedom only by some training in a social environment which bears some fair resemblance in point of liberty and responsibility to that which he must enter upon obtaining his release. Finally, there was no wide acceptance of the present position that the general body of delinquents cannot be treated as a single unified group. There was no general recognition that criminals must be dealt with as individuals or as a number of classes of individuals of different psychological and biological types that must be scientifically differentiated through a careful

psychiatric study, as well as a detailed sociological study of their environment, preliminary to the major part of their treatment while incarcerated. These last conditions have only been very recently and very incompletely realized in systems of convict self-government, such as those which Mr. Thomas Mott Osborne has introduced, and in such careful psychiatric studies of the criminal class as were attempted in the psychiatric clinic introduced in the Sing Sing prison by Drs. Thomas W. Salmon and Bernard Glueck.

### 126. EVILS OF THE PRESENT PRISON SYSTEM<sup>1</sup>

The main counts in the indictment I should draw on behalf of the prisoner against the State of New York (and however the prisons in other states may differ in superficial details, all of them, so far as I can learn, rest upon practically the same unsound foundations) would be these:

1. The constant confinement for many hours of the day, and sometimes for even whole days at a time, in small, unhealthy cells,—utterly unfit for human habitation; where physical degeneration is inevitable—and mental and moral degeneration as well. Most of the cells in Auburn measure  $7\frac{1}{2}$  feet by  $3\frac{1}{2}$ , and 7 feet high;—mere holes in a stone wall. At Sing Sing the cells are 6 inches lower, 6 inches shorter, and 3 inches narrower! In both prisons,—but especially Sing Sing, the dampness is so great that on many days you can scrape the moisture off the walls into the hollow of your hand. Rheumatism and tuberculosis are rife.

Into these dens men have been locked, frequently two in a cell, for fourteen—fifteen—sixteen hours out of the twenty-four; all day Sunday, except a few moments to empty buckets and eat breakfast, and an hour or so for chapel service; and all day long on holidays. When a Sunday and a holiday come together, the prisoners call it a “double-header.” It is significant that most fights in prison occur on Monday mornings.

2. The vice which naturally results from the constant confinement. Under the best possible prison conditions there is bound to be immorality. The only thing the head of such an institution as a prison

<sup>1</sup>By Thomas Mott Osborne. Adapted from *Society and Prisons*, pp. 140-152. Copyright, 1916, by the Yale University Press.

can do, is to use his utmost endeavor to foster conditions which will reduce such immorality to a minimum; to expect to eradicate the evil altogether is to expect the impossible.

But in addition to the immorality which springs from the very nature of the institution, there is the additional vice which comes from long or constant confinement, from a life of drear monotony, from overwrought nerves. When a man is locked alone or with one other man in a small cell, and is denied all exercise—has nothing to think of but himself and his grievances—what can be expected?

But unnatural vice is not the only evil that has flourished under the old system. Shut in all day Sunday, the cells close and miserably cold in winter, close and stifling hot in summer, with the stench from hundreds of buckets poisoning the atmosphere, men so craved relief from the intolerable conditions that they turned to the use of drugs.

My first acquaintance with Sing Sing prison began some fifteen or more years ago, when I became interested in the case of a young boy sentenced to prison for twenty years at the age of thirteen. He had been four years in Sing Sing when I secured a commutation of his sentence; and, placed in the George Junior Republic, he was soon found to be a "dope-fiend." No wonder a convict friend of his had implored me to obtain his release. "Get that boy out, if you can," he had said to me; "he will be ruined, body and soul, if he stays here."

How was it possible for such things to exist under the strictness of the old régime? That was one of the absurdities of the situation. Take a warden and a handful of officials and guards, poorly paid and the more important of them selected not for their skill in dealing with the prison problem but for political purposes; place them in charge of the cleverest and most daring crooks and sharpers of the underworld; and what will naturally result? The administration of some of our prisons has been a succession of scandals, the worst of which have failed to arouse public attention simply because decent people do not talk nor wish to hear of such things. But it is time that decent people woke up to the truth and realized that they are vitally concerned in the matter.

In Sing Sing prison, for five years—from 1910–1914 inclusive, there were but two punishments inflicted for immorality; sure proof that it ran riot. Not only has vice reigned—practically unchecked, but many of the guards, themselves, have been concerned in the drug and liquor



traffic which has been a perfectly well-recognized part of the game. Even where the utmost strictness prevailed, the cleverness of the prisoners would win out. In Auburn prison two years ago, shortly after the formation of the Mutual Welfare League, ten prisoners were rearranging the store-room. They were watched by four officers; and under the very eyes of these careful guardians the prisoners made off with three cases of condensed milk—one hundred and twenty cans. A search was made through the prison; and in one cell, where thirty-seven cans were lying hidden, the search revealed nothing. Then the League was called in; and soon the convict Sergeant-at-Arms had restored to the prison authorities over eighty cans; the remainder had passed "down the yard" and the contents so promptly consumed that they were irrecoverable. No trace of the missing tins was ever found.

3. The ill-organized and inefficient system of labor, which lacks any incentive to honest, steady work. Men are assigned to jobs entirely regardless of preference or capacity; they are kept at their unattractive tasks by fear of punishment; they receive no return for their labor,—(the cent and a half a day, graciously allowed by the State of New York, being a joke). Such labor is mere slavery; and slave labor has always been inefficient and always will be. It is hopeless to expect men to do good work unless they can see some advantage to themselves in doing it. Men outside prison are not, as a rule, afflicted with what Kipling calls "a morbid passion for work"; and human nature prevails inside the prison in this respect, if in no other.

4. The enforcement of silence. Even if there were suitable industrial reward for good work, prison labor would still be miserably inefficient under such a restraint. How students of penology could argue themselves into ignoring the fact that speech is the one thing that lifts man above the level of the brute; how they could imagine that human beings can be healthy in body, mind, or soul, except by natural relations through the power of speech with their fellow human beings, passes understanding. Presumably put in force to prevent the corruption of the less dangerous criminals by the more dangerous, the rule of silence acts with precisely the contrary effect; for men, if they cannot talk to their friends will talk to their enemies—rather than keep perpetually silent. The denial of the right of speech does not prevent communication, it only renders it more difficult. It does not hinder conspiracy and wickedness—those get by; it is the pleasant

word of hope and encouragement that is stopped,—the cheery “good-morning,” the kindly greeting of friendship. It is exactly as if an engineer were forbidden to put oil on his machinery for fear that he might be tempted to throw in sand.

Another comic element in the situation is the incredible foolishness which accompanies the efforts made to enforce such impossible rules. For instance, in Auburn prison there are eight cells in the “cooler”; each one with a grated door opening out into the vaulted room. Any man talking from his cell can be heard distinctly in all the other cells. Half the punishments on the books of the prison were for talking or whispering; and for these offences a man was sent to the one place in prison where he could talk all he pleased with perfect impunity!

5. Added to the terrible silence, the no less terrible monotony. In prison so few things ever happen. Day after day, week after week, month after month, year after year, the same grinding, dreary, deadly monotony. Cell-block, buckets, breakfast, work; dinner, work, buckets, cell-block. Once a week, bath; on Sunday, religious services. (Religious services! And the rest of the Lord’s day locked in a cell 7 feet by 39 inches!)

Every day or so one or more gray figures drop out of line and others take their places. Every month or so a horrible wave of nervousness sweeps the prison from end to end, and leaves the gray community quivering; an execution is to take place. Some unfortunate who has been hidden away for months or years from the eyes of men, fattening for the slaughter, is to be killed in the electric chair. The day before the event you can see the dreadful anticipation registered in the eyes of every man in prison. No word is spoken; but behind the mask of every gray-clothed figure you know the thought is there. And the next day, after the killing is over, every man is limp from the nervous reaction.

6. The constant espionage which the system makes necessary. If men are forbidden to talk or act naturally, of course they must be watched to see that they do not transgress the stupid rules. A strict and constant observation of every inmate becomes necessary, day and night. As it is obviously impossible to carry this out completely without a guard for every man, the prisoners find frequent pleasure in violating the rules. But no one who has not endured it can realize the nervous strain of constant subjection to the prying eyes of the keepers.

From morning until night, and again from night until morning, the eye of the guard is upon you—on the gallery, on the march, at meals, at work, in your cell; no right to a moment's privacy, night or day. The result is a state of unstable nervous equilibrium that the slightest jar may destroy. A guard must be constantly prepared to meet a murderous assault upon himself, or by one inmate upon another, caused by grudges arising from the most trifling causes. "Many a time, as I have stood here," said one of the Sing Sing officers to me last winter, "have I seen two men working side by side; one would accidentally jog the other with his elbow and quick as a flash a knife would be grabbed from somewhere or other and stuck in the fellow's back. Such things were of every-day occurrence under the old method."

7. The system of "stool-pigeons," which the dangerous condition of constant nervous unrest brings about. The authorities feel it necessary to know what is going on among their charges; and rightly so. The only way to do this is to employ spies and informers; so the prison community is honey-combed with suspicion. Lying and deceit—baseness of all kinds, even vice in its most loathsome form, becomes a part of the prison system. In every shop or company is a "runner" or "trusty,"—the officer's errand-boy, boot-black, valet, and general factotum. He has access at all times to his master and can whisper in his ear any accusations he pleases against any inmate for whom he gets a dislike. This convict favorite often becomes a peculiarly obnoxious species of tyrant.

A prisoner friend of mine once offended the runner of his company; and the next thing he knew he was suddenly called before the captain and charged with having a knife in his locker. He indignantly denied it; but upon the locker being examined, a knife was found—presumably put there by the trusty who had reported. My friend narrowly escaped severe punishment and was thereafter regarded with doubt and dislike.

Suspicion, fear, and hatred are the inevitable accompaniments of the system of espionage. The air is always filled with charges against one man or another. Tale-bearing is encouraged; privileges and rewards go to the successful purveyors of gossip and scandal. Side by side with wonderful loyalty and fine heroism are the most despicable treachery and double-dealing. In one case a young boy of twelve

in a juvenile institution committed murder. He had been persuaded to join a plan of escape; and then his companion had turned traitor and gained credit and privileges thereby. The killing of the "rat" followed as a natural result.

. It is bad enough in prison to be subject to the whims and moods of an officer; but to be subject to the officer's stool-pigeon is often unendurable.

8. The brutality which is a perfectly natural consequence of the system. The nervous condition of the men, caused by the silence, the monotony, and the espionage, carries with it an equally nervous condition of the guards. "We stand on a volcano," said one of the officers of Dartmoor prison to a writer from the *London Times*. "If our convicts here had opportunity to combine and could trust one another, the place would be wrecked in an hour." This nervousness of the guard makes him irritable and severe. He is afraid; and his fear engenders brutality; and brutality breeds revenge; the feeling of revenge and hatred for the prison authorities brings about more nervousness and greater fear; and so the vicious circle is complete.

Every generation or so there is a revelation of prison tortures; and a scandalized community forces the legislature to pass a law forbidding some special form of punishment that the diabolical ingenuity of man has invented; only to have some new cruelty devised to take its place.

9. Underlying all the rest of the prison system—all the brutality and imbecility, is the denial of initiative—of any responsibility on the part of a man either for his own acts or the acts of others.

The theory would seem to be this: that these prisoners, having shown by their conduct in the outside world that they cannot be trusted to act rightly, will be made righteous by closing all avenues to wrong action. The authorities, being presumably exceedingly wise and good men, shall lay down rules of conduct; and the criminal will tread the straight and narrow path—because all possibilities of straying will be walled up. Thus shall wicked men become good by mere force of inertia.

Of course a system based on any such theory could be nothing else than an utter failure; a hopeless, futile absurdity. It is not possible to close all avenues of wickedness; nor if it were possible, would it bring about the desired result. No men can be made good through



force of inertia, any more than they can be made good by giving them nothing to think about, in the hope that they will thereby learn to think straight. If a man is sound at heart,—if he feels right, he will both think right and act right; but the process does not work backwards. There is no such thing as morality without righteousness—a state of being obtained only when the conscience is in good working order. Like the mental and physical machinery of man, the spiritual machinery has to be kept in constant exercise. If it is called upon only in the hour of stress, it is bound to fail.

### 127. SYSTEMS OF CONVICT LABOR<sup>1</sup>

There are six general systems under which convicts are found at work in the United States: (1) the lease system, (2) the contract system, (3) the piece-price system, (4) the public-account system, (5) the State-use system, (6) the public works and ways system.

1. *Lease system.* Under this system the State (by which is meant the State proper or its minor subdivisions) enters into a contract with a lessee, who agrees to receive the convict, to feed, clothe, house, and guard him, to keep him at work, and to pay the State a specified amount for his labor. The State reserves the right to make rules for the care of the convict and to inspect the convict's quarters and place of work. No institution is maintained by the State other than a place of detention, where the convicts can be held until placed in the hands of the lessee and in which to confine convicts who are unable to work.

2. *Contract system.* This system differs radically from the lease system. Under this system the State feeds, clothes, houses, and guards the convict. To do this the State maintains an institution and a force of guards and other employees. A contractor engages with the State for the labor of the convicts, which is performed in or near the institution. The contractor pays the State a stipulated amount per capita for the services of the convict, supplies his own raw material, and superintends the work.

3. *Piece-price system.* This system differs from the contract system only as to superintending the work and determining the speed at

<sup>1</sup>From "Convict Labor," *Twentieth Annual Report of the Commissioner of Labor*, 1905, pp. 15–20. Government Printing Office, Washington, 1906.

which convicts must work. The State maintains the institution and feeds, clothes, and guards the convicts. The contractor supplies the raw material and pays the State an agreed amount for the work done on each piece or article manufactured by the convicts. The supervision of the work is generally performed by a prison official, although sometimes by the contractors. The officials of the prison not only maintain discipline, but dictate the quantity of work required.

4. *Public-account system.* So far as the convict is concerned, this system does not differ from the piece-price system, but for the institution it is an entirely different system. In the piece-price system the contractor finances the business and assumes all the chances of profit and loss. In the public-account system the State enters the field of manufacturing on its own account. It buys the raw material, manufactures, and puts the product on the market, and assumes all the risk of conducting a manufacturing business. The State has the entire care and control of the convicts, and with them conducts an ordinary factory.

5. *State-use system.* Under this system the State conducts a business of manufacture or production, as in the public-account system, but the use or sale of the goods produced is limited to the same institution or to other State institutions. The principle of the system is that the State shall produce for its own consumption only.

6. *Public works and ways system.* This system is very nearly like the State-use system. It might not improperly be included therewith. Under this system the labor is not applied to the manufacture of the common marketable articles of merchandise, but to the construction and repair of prison or other public buildings, public roads, parks, breakwaters, etc.

In each institution investigated an effort was made to secure the opinion of officials and employers of convicts as to the merits and demerits of the several systems under which convicts worked. The opinions expressed in reply to this inquiry are here briefly summarized.

The only argument that can be offered in support of the lease system for the employment of convicts is the poverty of the State and its inability to provide quarters, food, and guards for its convicts, and suitable work to keep them employed.

If the convenience and immediate financial interest of the State are the paramount consideration in dealing with prisoners, then, un-

doubtedly, the easiest and cheapest way to dispose of convicts is to turn them over, immediately after conviction, to lessees, who will take them in charge, employ them, and pay the State something for their labor. This system relieves the State of the expense of providing prison buildings and of feeding, clothing, and guarding the convicts, all of which responsibilities are assumed by the lessees. But, aside from its being convenient and cheap, the lease system has nothing in its favor and every consideration of humanity and criminology is against it. Its general effect has been demoralizing not only on the convict but on the body politic as well.

For the purpose of protecting the convict while under lease, the State maintains more or less supervision over the lessees' convict camps, and provides rules for the care of the convict and the direction of his work. The lessee has the immediate charge of the convict, and, as the lessee conducts his business for the money which may be derived from it, it is evident that he will give the convict no better care than is necessary to keep him fit for work, and will force all of the work possible out of him, or will approach these conditions as nearly as the law will permit. It is not to be expected that the lessee will have ordinarily any particular interest in the moral and intellectual welfare of the convict, or put forth any particular effort to effect his reformation.

To the credit of the States in which the lease system has been in vogue in the past, it should be said that the system is largely being superseded by other systems, mainly the public-account, State-use, and public works and ways systems. And in the States where the lease system is still found, the welfare of the convicts is more carefully guarded than heretofore.

So far as the welfare of the convict is concerned, the contract system is far superior to the lease system. Under this system the State assumes the burden of providing shelter, food, etc., for the convict. The State sells to contractors only the labor, and retains to itself the general care of the convict. The contractor works the convict under the close supervision of the State, but the State has exclusive control of maintenance and discipline, as it has in all of the other systems except the lease system.

Prison officials may be brutal sometimes, whatever the system in vogue, but, being employed on a salary independent of the profits of the institution, they do not have the ever-present incentive to over-



work the convicts in their charge, or to provide them with the minimum of food and clothing. The chief objection to the contract system is that authority over the convicts is divided. The prison officials maintain order while the contractor or his foremen superintend the work. As the contractor hires the convict by the day or some other unit of time, it is to his interest to get all of the work possible out of the convict. With three interests involved—those of the State, the contractor, and the convict—it is to be expected that friction will sometimes arise. The influence of the contractor and his employees on the convict is not always good.

The division of authority in industrial and financial matters, however, is the principal feature that commends this system. The contractor directs the industries of the institution and assumes all of the responsibility of profit and loss, leaving the prison officials free to devote their whole attention to the care of the convict. The working of the lease system has demonstrated that men may be able to get profitable work out of the convicts and yet be utterly unfitted to be trusted with their physical, mental, and moral interests. Conversely, prison officials may be selected who are fully qualified to administer the penal and reformatory side of the institution, yet who possess few qualifications for conducting manufacturing or other industrial enterprises. This system is intended to conserve two interests—first, to administer the institution with the least possible expense to the State, and, second, to provide good care in every respect for the convict.

Under the piece-price system the contractor pays for the work of the convict, not by the day, but by the piece or article produced. The prison officials may or may not supervise the work of the convicts, but they control the pressure under which the convict must work. When the prison officials supervise the work, as they more often do, this system eliminates the division of authority over the convicts, but it requires that prison officials shall have sufficient ability to direct the labor of the convicts, as well as ability to maintain the punitive side of the institution.

So far as the convict is concerned, there is very little difference between the piece-price system and the public-account system. For the State, however, the systems are radically different. In the public-account system the State goes into business on its own account. It provides the raw material, employs the convicts thereon, and places



its goods on the market like any other manufacturer, and assumes all the risk of profit and loss in the business. By this system the State seeks to gain for itself all the profit the contractor might make out of the labor of the convicts. Evidence shows that the convicts work more willingly for the State than for a contractor. In authorizing this system the State often provides that the convicts shall produce something that is in general demand in the State, or some article whereon their labor will compete to the least extent with free labor in the State. But the system requires a high degree of ability on the part of the prison officials, for they must be able to conduct not only the penal side of the institution, but also the manufacturing business, and be able successfully to place the prison product on the market.

Under the State-use system the State provides the raw material and employs the convicts in the same manner as under the public-account system. The difference between these two systems lies in the disposal of the product. Under the State-use system the goods must be consumed in the same institution, or be sold only to other State institutions or other departments of the State government. This system has been adopted largely because of the objections of free labor to the competition of the convict and of the manufacturer employing free labor to the competition of prison-made goods. It must be conceded that if the convict works at all there must be competition between convict labor and free labor, but under this system the competition is indirect and not so apparent. What the State provides it does not have to buy, and thus the cost of maintaining the State and its several institutions is partially met by the employment of prisoners under this system and taxation thus reduced. The State gets the full benefit of the labor of the convict, and, as has been stated, the average convict works more willingly when working for the State, and especially when working on articles for his own consumption. This system seeks to conserve three interests instead of two—the financial interest of the State, the general interest of the convict, and to at least an equal extent the interest of free labor, which is ignored entirely in the lease, contract, and piece-price systems and to a great extent in the public-account system. The State-use system, however, has its faults. It cannot supply all the wants of the convicts, as the convicts cannot enter every industry, and as the demand for the convict product is limited the convicts cannot, as a rule, be worked to their full capacity.

The public works and ways system is nearly the same as the State-use system. The competition with free labor is perhaps a little further removed. The State is the sole beneficiary of the work of the convicts, as is the case under the State-use system. In the public works and ways system the convicts are employed in erecting public buildings, building highways, etc., of a permanent character, rather than in making articles for consumption. Under this system much work is done that would be delayed or possibly not undertaken at all if the work were not done by convict labor. Convicts may be put to work erecting buildings or improving highways, and no difficulty experienced in procuring an appropriation for the maintenance of the convicts while so engaged, when it would be quite impossible to secure a direct appropriation for the same work to be done by free labor, even though the total cost should be the same.

Practically all of the work done under the public works and ways system is performed in the open air, which is greatly to the benefit of the health of the convicts engaged. When the convicts are engaged, however, in building public roads there is greater danger of escape and consequently a greater cost for guarding them. Another objection to the employment of convicts on public ways is the fact that they are exposed to the gaze of the public, which all penologists admit to be against the best interests not only of the public but of the convict as well.

In some institutions only one system of work was found; in the greater number of institutions, however, two or more systems were found. Prison labor is not like free labor. The convicts are on hand whether their labor is wanted for any purpose or not; hence it is more often a matter of finding work for the convicts than of finding employees for the work.

## CHAPTER XXXVII

### REFORMATORY METHODS

#### 128. THE AMERICAN REFORMATORY PRISON SYSTEM<sup>1</sup>

To accomplish protective reformations it is necessary, preliminarily, to fix upon the standard of reformatory requirement, to adopt the criterion, to organize and perfect the plan of procedure. The standard fixed is, simply, such habitual behavior, during actual and constructive custody, as fairly comports with the legitimate conduct of the orderly free social class to which the prisoner properly belongs in the community where he should and probably will dwell. The criterion of fitness for release is precisely the same performance subjected to tests while under prison tutelage by the merit and demerit marking system which, somewhat modified in strenuousness and with addition of its monetary valuations, is similar to the marking system of our National Military Academy; and tested, also, by proper supervision during a period of practical freedom while on parole. Both the standard and criterion must be somewhat pliant to meet the variant capacity of communities to absorb incongruous elements and because each prisoner must be fitted for his appropriate industrial and social niche.

*Reformatory procedure.* Efficiency of the reformatory procedure depends on completeness of its mechanism composed of means and motives; on the force, balance, and skill with which the means and motives are brought to bear upon the mass, the groups, and the individual prisoners; and not a little on the pervading tone of the reformatory establishment. A mere enumeration of means and motives of the mechanism is, briefly, as follows:

1. The material structural establishment itself. This should be salubriously situated and, preferably, in a suburban locality. The general plan and arrangements should be those of the Auburn Prison

<sup>1</sup> By Z. R. Brockway, formerly Superintendent of the Elmira State Reformatory. Adapted from *Correction and Prevention*, pp. 95, 99-102, 107. Edited by Charles Richmond Henderson, Ph.D., Charities Publication Committee, New York, 1910. Copyright, 1910, by the Russell Sage Foundation.

System plan, but modified and modernized as at the Elmira Reformatory; and ten per cent of the cells might well be constructed like those in the Pennsylvania System structures. The whole should be supplied with suitable modern sanitary appliances and with abundance of natural and artificial light.

2. Clothing for the prisoners, not degradingly distinctive but uniform,<sup>1</sup> yet fitly representing the respective grades or standing of the prisoners. Similarly as to the supply of bedding which, with rare exceptions, should include sheets and pillow slips. For the sake of health, self-respect, and the cultural influence of the general appearance, scrupulous cleanliness should be maintained and the prisoners kept appropriately groomed.

3. A liberal prison dietary designed to promote vigor. Deprivation of food, by a general regulation, for a penal purpose, is deprecated; it is a practice only tolerable in very exceptional instances as a tentative prison disciplinary measure. On the other hand, the giving of food privileges for favor or in return for some special serviceableness rendered to the prison authorities is inadvisable and usually becomes a troublesome precedent. More variety, better quality and service of foods for the higher grades of prisoners is serviceably allowable even to the extent of the *à la carte* method, whenever the prisoners under the wage system, have the requisite credit balance for such expenditure. Also, for some of the very lowest intractable prisoners, a special, scientifically adjusted dietary, with reference to the constituent nutritive quality, and as to quantities and manner of serving, may be used to lay a foundation for their improvement, otherwise unattainable.

4. All the modern appliances for scientific physical culture: a gymnasium completely equipped with baths and apparatus; and facilities for field athletics. On their first admission to the reformatory all are assigned to the gymnasium to be examined, renovated, and quickened; the more defective of them are longer detained, and the decadents are held under this physical treatment until the intended effect is accomplished. When the population of the Elmira Reformatory was 1400, the daily attendance at the gymnasium averaged 429.

5. Facilities for special manual training sufficient for about one-third of the resident population. The aim is to aid educational ad-

<sup>1</sup> Compare this and other recommendations with contemporary principles and practice.—ED.



vancement in the trades and school of letters. This special manual training, which at Elmira Reformatory included, at one time, five hundred of the prisoners, covered in addition to other exercises in other departments mechanical and freehand drawing; sloyd in wood and metals; cardboard constructive form work; clay modeling; cabinet making; chipping and filing; and iron molding.

6. Trades instruction based on the needs and capacities of individual prisoners, conducted to a standard of perfect work and speed performance that insures the usual wage value to their services. When there are a thousand or more prisoners confined, thirty-six trades and branches of trades may be usefully taught.

7. A regimental military organization of the prisoners with a band of music, swords for officers, and dummy guns for the rank and file of prisoners. The military membership should include all the able bodied prisoners and all available citizens of the employes. The regular army tactics, drill, and daily dress parade should be observed.

8. School of letters with a curriculum that reaches from an adaptation of the kindergarten, and an elementary class in the English language for foreigners unacquainted with it, through various school grades up to the usual high-school course; and, in addition, special classes in college subjects and, limitedly, a popular lecture course touching biography, history, literature, ethics, with somewhat of science and philosophy.

9. A well-selected library for circulation, consultation, and under proper supervision, for occasional semi-social use. The reading room may be made available for worthy and appreciative prisoners.

10. The weekly institutional newspaper, in lieu of all outside newspapers, edited and printed by the prisoners under due censorship.

11. Recreating and diverting entertainments for the mass of the population, provided in the great auditorium; not any vaudeville nor minstrel shows, but entertainments of such a class as the middle cultured people of a community would enjoy; stereopticon instructive exhibitions and explanations, vocal and instrumental music, and elocution, recitation, and oratory for inspiration and uplift.

12. Religious opportunities, optional, adapted to the hereditary, habitual, and denominational predilection of the individual prisoners.

13. Definitely planned, carefully directed, emotional occasions; not summoned, primarily, for either instruction, diversion, nor, specifi-

cally, for a common religious impression, but, figuratively, for a kind of irrigation. I have sufficiently experimented with music, pictures, and the drama, in aid of our rational reformatory endeavors, to affirm confidently that art may become an effective means in the scheme for reformation.

In addition to the foregoing items the prisoners are constantly under pressure of intense motives that bear directly upon the mind. The indeterminateness of the sentence breeds discontent, breeds purposefulness, and prompts to new exertion. Captivity, always irksome, is now unceasingly so because of the uncertainty of its duration; because the duty and responsibility of shortening it and of modifying any undesirable present condition of it devolve upon the prisoner himself, and, again, because of the active exactions of the standard and criterion to which he must attain.

Naturally, these circumstances serve to arouse and rivet the attention upon the many matters of the daily conduct which so affect the rate of progress toward the coveted release. Such vigilance, so devoted, supplies a motive equivalent to that of the fixed idea. Then the vicissitudes of the daily experience incite to prudence; and the practice of prudence educates the understanding.

Neither punishment nor precept nor both combined constitute the main reliance; but, instead, education by practice—education of the whole man, his capacity, his habits and tastes, by a rational procedure whose central motive and law of development are found in the industrial economies. This is a reversal of the usual contemplated order of effort for reformations—the building of character from the top down; the modern method builds from the bottom upward, and the substratum of the structure rests on work.

## 129. THE MUTUAL WELFARE LEAGUE<sup>1</sup>

While I had become fully convinced in 1904 that self-government was the practical remedy for the evils of the prison system, I did not see clearly just how it could be put in practice.

For many years I wondered how and when such a system of self-government could be put in operation; and to find light on this subject

<sup>1</sup>From *Society and Prisons* (pp. 154-184), by Thomas Mott Osborne. Copyright, 1916, by the Yale University Press.

was one of the reasons for my week's imprisonment. Thanks to the chance (was it altogether chance, I wonder?) which sent me to the basket-shop and to my partner, Jack Murphy, an answer to the problem was found.

As Jack and I stood talking at our work-table on Thursday afternoon, October 2, 1913, the conversation drifted to the long and dreary Sundays. Jack agreed with all those with whom I had talked that Sunday afternoon was the worst thing in prison life. I said that I felt sure the prison authorities would be glad to give the men some sort of exercise or recreation on Sunday afternoons, if it were practicable. Then ensued the following conversation, as set forth in my journal:

"You can't ask the officers to give up their day off. and you don't think the men could be trusted by themselves, do you?"

"Why not?" says Jack.

I look at him, inquiringly.

"Why, look here, Tom!" In his eagerness Jack comes around to my side of our working table. "I know this place through and through. I know these men; I've studied 'em for years. And I tell you that the big majority of these fellows in here will be square with you, if you give 'em a chance. The trouble is, we ain't treated on the level. I could tell you all sorts of frame-ups they give us. Now if you trust a man, he'll try and do what's right; sure he will. That is, most men will. Of course, there are a few that won't. There are some dirty curs—degenerates—that will make trouble, but there ain't so very many of those.

"Look at that road work," he continues. "Haven't the men done fine? How many prisoners have you had out on the roads? About one hundred and thirty. And you ain't had a single runaway yet. And if there should be any runaways, you can just bet we'd show 'em what we think about it."

"Do you really believe, Jack, that the Superintendent and the Warden could trust you fellows out in the yard on Sunday afternoons in summer?"

"Sure they could," responds Jack, his face beginning to flush with pleasure at the thought. "And there could be a band concert, and we'd have a fine time. And it would be a good sight better for us than being locked in our cells all day. We'd have fewer fights on Monday, I know that."

"Yes, it would certainly be an improvement on spending the afternoon in your cells," I remark. "Then in rainy weather you could march to the chapel and have some sort of lecture or debate. . . . But how about the discipline? Would you let everybody out into the yard? What about those bad actors who don't know how to behave? Won't they quarrel and fight and try to escape?"

"But don't you see, Tom, that they couldn't do that without putting the whole thing on the bum, and depriving the rest of us of our privileges? You needn't be afraid we couldn't handle those fellows all right. Or why not let out only those men who have a good conduct bar? That's it," he continues, enthusiastically warming up to the subject, "that's it, Tom, a Good Conduct League. And give the privilege of Sunday afternoons to the members of the League. I'll tell you, Tom! you know last year we got up an Anti-swearing League here in this shop, and we had a penalty for every oath or dirty word. The forfeits were paid in matches. You know matches are pretty scarce here, don't you? Well, we had a grand success with that League. But this Good Conduct League would be a much bigger thing. It would be just great. And go! Sure it'll go."

The next day Jack and I discussed the matter again, especially the necessity of having some officers of the League to enforce discipline. To this he at first objected, on the ground that it "would be too much like Elmira. . . . I'm afraid the fellows wouldn't stand for it. You know they just hate those Elmira officers; they're nothing but stool-pigeons."

Here my Junior Republic training came to our aid, and I showed Jack how, if the officers were elected by the men, it would change their whole character. "They may turn out to be poor officers,"—I said; "dictatorial, or weak, or incompetent—but they will not be stool-pigeons."

The die was cast; the seed of the new system had been planted. On the day I left prison Jack Murphy wrote me a letter, which contained this paragraph:

To-morrow, Monday, October 6, I shall request one of the boys in the basket-shop to draw up a resolution pledging our loyalty to your cause; and I shall ask only those who are sincere to sign it. After this has been done, I am going to ask our Warden for permission to start a Tom Brown League; its members to be men who have never been punished. Tom, I hope that you and your fellow-commissioners as well as Supt. Riley and Warden Rattigan will approve of this, for I am sure that such a League will bring forth good results. I have associated so many years among the class of men in this prison that I believe them to be part of my very being; and that is why I have so much confidence in the success of a Tom Brown League.

What came to me so clearly, as Jack Murphy and I talked over the matter in the basket-shop, was that here were the men who knew; here were the men who had really thought seriously about the matter;



here were the men who were the ones most directly affected. If a plan of self-government was to work at all, it must be worked by them; and they would certainly work their own plan better than they could some outside plan—no matter how perfect. I understood that the only self-government that would be successful in prison was the self-government which the prisoners themselves would bring about—their own self-government. This was real, vital democracy; this was solving the problem in the genuine American spirit.

On December 26th a free election was held in the different shops of the prison, to choose a committee of forty-nine, to determine the exact nature and organization of the League, the general idea of which had been unanimously approved by show of hands at the conclusion of the chapel services on the Sunday previous. A half hour was given to each shop, before taking a vote, to discuss candidates and other matters relating to the proposed organization. The officers were of course in charge, and extra but unnecessary guards were in attendance. Much interest was taken in the election; and there were some very close contests for places on the committee.

Two days after the election (December 28th), the members of the committee of forty-nine were brought to the chapel, and the meeting called to order by the Warden. Some one made the motion that Thomas Brown, No. 33,333x, be made chairman, which was unanimously carried. Then the Warden and the guards retired. For the first time in the history of prisons a large body of convicts, unguarded, was permitted a full and free discussion of their own affairs. The discussion was not only free, but most interesting, as the committee contained men of many minds and of all kinds, sentenced for all sorts of offences—first, second, and third termers.

The first question discussed was the membership of the League; should it be a reward for good behavior, or thrown open to every prisoner and terminated on bad behavior? As has been shown, the first idea Jack Murphy and I had had was the former; but Warden Rattigan had expressed his opinion that the more democratic form would be far better. The committee, in its discussion, went to the bottom of the question in short order. One member arose and said: "If the membership is to be only of those who have shown good behavior, who is to decide what is good behavior? Who is to set the standards?"

"Why, I suppose the prison authorities will, of course," was my rather lame reply.

"We don't recognize those standards," was the decisive rejoinder, as the speaker took his seat.

The point, when put in this way was obvious and well-taken. The standards of the old system—the standards of soft jobs for "rats" and "stool-pigeons," but bread and water in the dark cells for faithful fellows who would not "snitch on their pals,"—such standards were not those of the right-minded men who must be the backbone of the League. It was the first point of division; and unhesitatingly the men turned to the path of sincerity and straightforward dealing. If they were to have a league, it must be one which represented their own ideals, not the ideal of the bad old system.

Unanimously the point was carried—the membership of the League must be thrown open to all; and forfeited for bad conduct, according to standards which it would be for the League to determine.

Then we came to the second question: What should the League do? As quickly as they had gone to the root of the first question, it was seen that this question need not be debated. What the League would be allowed to do rested entirely with the authorities. I suggested that the best method of procedure would probably be to take up one desired privilege at a time; ask for it, and get it if we could. For instance, the privilege of the chapel for meetings on Sunday afternoons was obviously the first thing to bring about.

The third question was: How should the machinery of the League be formulated? A sub-committee of twelve, with the chairman a member ex-officio, was voted; and with some difficulty, owing to my limited prison acquaintance, I selected the necessary members.

This sub-committee proved to be one of the most satisfactory bodies of the kind I have ever worked with. Businesslike, fertile in suggestion, keen in argument, good-tempered in decision. There was a general sense of the lasting importance of our discussions—of the movement we were starting. Three or four meetings of the sub-committee sufficed to formulate the by-laws, and after full discussion by the committee of forty-nine, they were reported to the whole body of the prisoners on January 11, 1914, and unanimously adopted.

The scheme of government thus prepared was the simplest and most democratic imaginable. Every prisoner was eligible for membership

in the Mutual Welfare League, which was the name adopted after much discussion. It was declared that "the object of the League shall be to promote in every way the true interests and welfare of the men confined in prison." The motto was concise and explicit: "Do Good—Make Good." The colors, green and white,—emblematic of Hope and Truth.

Adopting the same constituencies that had elected the committee on organization, the governing body of the League was a board of delegates of forty-nine, elected every six months. The delegates were to select an executive board of nine from among their number, to which was entrusted the administration of the League. The executive board appointed a clerk, and a sergeant-at-arms, who was empowered to add as many assistant sergeants-at-arms as necessary, the delegates acting also in that capacity. The board of delegates was also divided into eight grievance committees of five each, which should hear and determine all complaints against members of the League.

With this simple framework of organization the new prison system began. At the first election on January 15th many of those who had been on the committee of forty-nine were returned as members of the board of delegates. It was a thrilling sight when on Sunday, January 18, 1914, after the population of the prison in excited expectation was seated in the chapel, the newly elected representatives of their fellow-prisoners marched in two by two—each with a bow of green and white ribbon pinned to his gray coat, to the thunderous applause of their constituents. Raising their right hands they took the oath of office read to them by the Warden, as follows:

You solemnly promise that you will do all in your power to promote the true welfare of the men confined in Auburn Prison; that you will cheerfully obey and endeavor to have others obey the rules and regulations of the duly constituted prison authorities, and that you will endeavor in every way to bring about friendly feeling, good conduct, and fair dealing among both officers and men to the end that each man, after serving the briefest possible term of imprisonment, may go forth with renewed strength and courage to face the world again. All this you promise faithfully to endeavor. So help you God.

Many of the prisoners showed deep emotion; and one man said to me afterwards: "When those delegates marched in, I just wanted to get up and shout. I never was so excited but once before; and that

was when I was a soldier in Cuba and saw our fellows making their charge up San Juan Hill."

Better still was to come. The delegates met and selected an admirable executive board; that board met and appointed as Sergeant-at-Arms a young man named William Duffy, whose services to the League have only been equalled by those of Jack Murphy, the founder, and S. L. Richards, a prisoner whose faithful and untiring energy, high ethical standards, and large experience made him almost invaluable as secretary.

On February 4th occurred the first meeting of a grievance committee. There had been a fight on one of the galleries and two men were accused. The question arose as to the kind of hearing that should be held by the committee; should it be a trial or an investigation? One of the guilty parties claimed the right to be represented by counsel; but it was quickly seen that this meant attorneys and cross-examinations and objections and all the rigmarole of a court. Many of the League members had already suffered from a surplus of legal procedure and they willingly listened to a suggestion that we start by throwing aside the whole simulacrum of a court. So counsel was refused and the two accused men were examined as witnesses—and both lied like the traditional trooper; exactly as they had been accustomed to lie under the old system. But when other witnesses were brought in one by one, some of them, understanding the changed conditions of things, told the truth. The case ended in both guilty parties making a clean breast of the whole matter, one of them being dismissed from the office of delegate, and both being suspended for the first general meeting of the League, which was scheduled for February 12th. The last punishment was afterwards remitted in view of the truthful attitude of the two men.

On February 11th a brief gathering of the delegates was held, so that the Sergeant-at-Arms could give his instructions for the conduct of the first general meeting of the League on the next day. Remember that for the first time the whole prison population was to come together without guards! It is impossible for one who did not pass through those thrilling experiences to realize the excitement—the exhilarating effect of passing safely one after another of the milestones on the road to a genuine system of prison discipline. The delegates were filled with an enthusiasm which bore an almost religious charac-



ter. They were pioneers of prison democracy. The meeting broke up with an earnest appeal from the Secretary reminding the men "that it was up to them to show that they could behave themselves and act like gentlemen."

The events of the next day I wrote out shortly after the occurrence; here is the account.

It is the afternoon of Lincoln's Birthday. Once again I am standing on the stage of the assembly room of Auburn prison, but how different is the scene before me. Busy and willing hands have transformed the dreary old place. The stage has been made into a real stage—properly boxed and curtained; the posts through the room are wreathed with colored papers; trophies and shields fill the wall spaces; the front of the gallery is gaily decorated. Everywhere are green and white, the colors of the League, symbolic of hope and truth. Painted on the curtain is a large shield with the monogram of the League and its motto, suggested by one of the prisoners, "Do good—Make good."

At about quarter past two the tramp of men is heard and up the stairs and through the door come marching nearly fourteen hundred men (for all but seventeen of the prisoners have joined the League). Each man stands proudly erect and on his breast appears the green and white button of the League, sign and symbol of a new order of things. At the side of the companies march the assistant sergeants-at-arms and the members of the board of delegates—the governing body of the League; and on the coat of each is displayed a small green and white shield—his badge of authority.

No such perfect discipline has ever been seen before in Auburn prison, and yet there is not a guard or keeper present except the new P. K. or Deputy Warden, who in an unofficial capacity stands near the door, watching to see how this miracle is being worked. In the usual place of the P. K. stands one of the prisoners, the newly-elected Sergeant-at-Arms, whose keen eye and forceful, quiet manner stamp him as a real leader of men.

In perfect order company after company marches in, and as soon as seated the men join in the general buzz of conversation, like any other human beings assembled for an entertainment. There is no disorder, nothing but natural life and animation.

I look out over the audience—and my mind turns back to the day before I entered prison, when I spoke to the men from this stage. What is it that has happened? What transformation has taken place? It suddenly occurs to me that this audience is no longer gray; why did I ever think it so? "Gray and faded and prematurely old," I had written of that rigid audience—each man sitting dull and silent under the eye of his watchful keeper, staring straight ahead, not daring to turn his head or to whisper.

Now there are no keepers, and each man is sitting easily and naturally, laughing and chatting with his neighbor. There is color in the faces and life in the eyes. I had never noticed before the large number of fine-looking young men. I can hardly believe it is the same gray audience I spoke to less than five short months ago. What does it all mean?

For this first meeting, the Executive Committee of the League has planned a violin and piano recital. For two hours the men listen attentively and with many manifestations of pleasure to good music by various composers ranging from Bach and Beethoven to Sullivan and Johann Strauss.

Between the first and second parts of the programme, we have an encouraging report from the Secretary of the League, none other than our friend Richards, whose cynical pessimism of last July has been replaced by an almost flamboyant optimism as he toils night and day in the service of the League. We have also speeches of congratulation and good cheer from two other members of the Commission on Prison Reform, who have come from a distance to greet this dawn of the new era.

Then after the applause for the last musical number has died away, the long line of march begins again. In perfect order and without a whisper after they have fallen into line, the fourteen hundred men march back and shut themselves into their cells. One of the prison keepers who stands by, watching this wonderful exhibition of discipline, exclaims in profane amazement, "Why in Hell can't they do that for us?"

Why, indeed?

The men have been back in their cells about an hour when an unexpected test is made of their loyalty and self-restraint. As I am about to leave the prison and stand chatting with Richards at his desk in the back office, the electric lights begin to flicker and die down.

Richards and I have just been talking of the great success of the League's first meeting and the good conduct of the men. "Now you will have the other side of it," says Richards. "Listen and you will hear the shouts and disorder that always come when the lights go out."

Dimmer and dimmer grow the lights, while Richards and I listen intently at the window in the great iron door which opens onto the gallery of the north wing.

Not a sound.

The lights go entirely out, and still not a sound. Not even a cough comes from the cells to disturb the perfect silence.

We remain about half a minute in the dark, listening at the door. Then the lights begin to show color, waver, grow lighter, go out altogether for a second, and then burn with a steady brightness.

I look at Richards. He is paler than usual, but there is a bright gleam in his eyes. "I would not have believed it possible," he says impressively ;

"such a thing has never happened in this prison before. The men always yell when the lights go out. In all my experience I have never known anything equal to that. I don't understand it.

"If any one had told me the League could do such a thing," he continues, "I would have laughed at them. Yet there it is. I have no further doubts now about our success."

I have spoken of the lights dying down on the evening of February 12th. The next month we had a somewhat similar incident, but under much more exciting conditions. A distinguished English pianist had agreed to stop over on his way to New York from Chicago and fill one of the regular Sunday afternoon chapel meetings with a piano recital. As luck would have it his telegram was so late in delivery that there was no time to get a suitable piano. He arrived and was much disappointed, as were the men. He suggested to me that he give the concert the next evening. I gasped. "In the evening! Why, the men have never been out of their cells at night since the prison was built—one hundred years ago. But I will put it up to the Warden."

I did so; and his action was characteristic. "It's never been done," he said; "but that's no reason why it shouldn't be. I'll take the chance, if you will." As the official responsibility was entirely his, I consented at once; and arrangements were duly made. Many of these men had not spent an evening out of their cells for years—five, ten, fifteen, some of them for twenty years. The excitement can hardly be imagined.

The evening came. The procession of fourteen hundred men started for the chapel. Between three and four hundred men were seated there; the long line stretched out through the chapel, through the halls, down the stairs, and along the corridors. The galleries were filled with marching men. Suddenly something happened to the dynamo and every light in the prison went out!

The lines halted. Some few men started whispering, but were promptly hushed by the delegates. In perfect order and silence, minute after minute, they waited for the lights to return. Up in the chapel, meantime, the same good discipline reigned. The Sergeant-at-Arms, describing his experience to me the next day, said: "At first I didn't know what to do. Then I told Billy O'D—[the pianist] to play something. Then I saw the light of a lantern coming along the

hall and I thought it was Johnny, the P. K.'s runner; and I yelled, 'Hurry up there with that lantern.' And when he came nearer, who do you think it was?—the Warden. I said: 'Excuse me, Warden, I thought it was one of the boys.' And what do you think he said? He said, 'So I am, or I wouldn't be here.' Think of the Warden coming into this place in the dark alone with us fellows! Gee, that took nerve!"

After nearly fifteen minutes of darkness and perfect quiet the lights came back and the march was resumed. When my friend, the pianist, and I arrived shortly afterwards, there seemed to be nothing unusual, except that I noticed the Warden looked a little pale, and tense about the corners of his mouth.

The next day one of the men said to me: "I guess that was done on purpose, just to try us out; wasn't it?" And I, adopting the vernacular, responded briefly but forcibly: "Not on your life!"

Soon after this an interesting and most important meeting took place. We had run against a snag. Cases of discipline were still handled as usual by the prison officials,—the P.K. sending men to the dark cells on bread and water for all sorts of minor offences; then the same cases were being brought before the grievance committees. Thus the offenders were getting double punishment; with the result that guilty prisoners were refusing to own up, witnesses were declining to testify, and grievance committees were objecting to serve.

There was but one thing to do; to show to the prison authorities that there were only two possible policies: to go forward or to go back; and that to go forward meant that the minor cases of discipline must be left to the League. Only in that way could full responsibility be placed upon the men and the real benefits of the new system secured. Warden Rattigan faced the situation with his usual good judgment, and, with the approval of the Superintendent of Prisons, proposed to hand over all infractions of discipline to the League except in five instances: (1) Assault upon an officer; (2) Deadly assault upon another inmate; (3) Refusal to work; (4) Strike; (5) Attempt to escape.

By the time the executive committee had secured this proposition from the Warden considerable dissatisfaction had developed about the prison. Gossip had greatly exaggerated the number of double punishments inflicted by the League and prison officials, and there had been



revived the old jealousy and dislike of convict officers. One of the first men to whom Jack and I had suggested the League, when he heard of the authority it was proposed to grant to sergeants-at-arms, promptly responded: "Nothin' doin'. I wouldn't be bossed by no convict. Ain't the keeper enough? What's he paid for? No Elmira stool-pigeons for mine!"

There was added a third source of dissatisfaction: the natural shrinking from responsibility on the part of men who in many cases had been so many years under prison discipline that they had almost lost the power of initiative. The responsibilities of self-government, to some of these men, were painful; as painful, doubtless, in its way, as the sudden effort to use some muscle which has long been atrophied from lack of exercise.

A mass-meeting of the League was called to settle the momentous question. The day before, the executive committee told me that it was desirable I should preside; for it was altogether likely that a rather lively discussion would take place. We have come now to regard such mass-meetings as so much a matter of course that it is hard to realize how anxious we all felt concerning that first one. But at the time we had no precedents; there were plenty of people outside and officers inside the prison who were genuinely of the belief that to let the prisoners meet without guards was very much like unmuzzling a lot of mad dogs. So I laid my plans for the meeting very carefully before I went to sleep the night before.

On Sunday afternoon the fourteen hundred men came together in the chapel and there ensued a serious, most interesting, and, at times, a really brilliant debate on the acceptance of self-government. One speech, in particular, was made by a clever Irishman, who had been in his day a well-known labor agitator, and who from the first had taken a great interest in the League; and an unselfish interest, for his own term was nearly completed. His speech was a brief one, lasting only three and one-half minutes,—he asked the audience to stop applauding as he wanted his full allowance of time for speaking,—and in that short period he poured forth a stream of eloquence, humor, sarcasm, and common-sense, ending with an impassioned appeal to the intelligence and righteousness of his fellow-prisoners, such as I have seldom heard equalled. He swept his audience along with him; and when the vote was taken at the end of a three-hour debate, only about twenty

men were unconvinced. Inside the prison the day was finely and thoroughly won for the new system.

Every Sunday afternoon the League met in the chapel, where a wide variety of entertainment was provided. One day a musicale, another day a scientific lecture, then a moving picture show—the battle of Waterloo), followed the next Sunday by a lecture on Napoleon. Always good conduct and increasing indications of better health and general morals.

As Memorial Day approached a new excitement stirred the prison: permission had been obtained to have open-air sports in the yard. For several weeks an athletic committee had been busy at work—preparing a schedule of events, obtaining entries, and getting the various contestants into training. When the list was shown to and approved by the Warden, a certain third-termers, a man of solemn manner and much prison experience, said drily: "Warden, some of the boys have suggested an additional event, to be added at the end there: a wall-climbing contest."

Some three weeks beforehand the Warden's chief assistant, the Superintendent of Industries, took me off one side and said: "Now, Mr. Osborne, of course I approve of this League. It's worked just fine on Sunday afternoons; and the men have certainly behaved splendidly up in chapel. But, do you know, I don't just like this yard business!"

Stifling any doubt I might myself feel, I looked him calmly in the eye. "What do you think they'll do?" I asked.

"I don't know," said he; "they might do almost anything."

"Yes," I rejoined, "they might; but they won't."

Two days before the 30th we seemed to be the victims of misfortune; the Warden was ordered away by the doctors for a fortnight's rest—having been in bad health for many weeks; and an epidemic of scarlatina developing, the prison was placed under quarantine. It seemed as though Fate was against us; but as we look back now, it seems almost as if Fate had been consciously engaged in our behalf.

As the quarantine was strict, no officer was allowed to leave the prison. This was one advantage; for the first time many of the guards understood to some extent what imprisonment means. The absence of the Warden was another advantage; it gave self-reliance

to the officials of the League,—who were thus forced to trust to their own judgments. The third advantage happened afterwards.

Memorial Day was one of glorious sunshine and summer air. After an early dinner, everything was made ready. The signal was given, the door of every cell was thrown open, the music of the band broke forth, and out from the iron portals into the freedom of God's fresh air and sunlight marched the fourteen hundred prisoners—each company in charge of its own delegates and sergeants-at-arms. Each group stood at attention until the last man was in the yard; then at the trumpet call ranks were broken, friends rushed across the yard to greet each other, and brothers who for long years had never been able to speak, clasped hands and walked away together, their feelings too sacred for the common gaze. It was a sight which those fortunate enough to witness will never forget.

Through the long, bright afternoon there was good sport and pleasant fellowship. In the intervals between the various athletic events the mandolins and guitars of the Italians made music; the crowds joined in the singing; the broad asphalt walks made good floors for dancing.

The executive committee had adopted a happy suggestion which had occurred to me—to pit the athletes of the North Wing against those of the South Wing; Auburn prison rejoicing in two cell-blocks. The result was that every one was wildly interested in the sports; and I was constantly reminded of some good-natured intercollegiate rivalry. It was difficult to think of these men as the cowed, sullen, dangerous creatures of six months before.

When the last race had been run, the big green and white banner had been awarded to the victors of the South Wing, and they had paraded their trophy proudly around the yard, it was time to end the happy afternoon. At the trumpet signal every man found his place, the companies were duly counted by their delegates; and as the band played the final number, the lines of gray figures marched back through the doorways. Then the bandsmen picked up their stools and followed after; the yard officer and his trustees swung to the heavy iron doors, secured with bolts and huge padlocks on the outside; and the yard was left silent and empty to the gathering dusk. As we watchers from the head of the gray stone staircase turned and struck upon the iron door for admission to the back office, the whole thing

seemed already like a dream—a wonderful dream of human brotherhood;—a prophetic vision looking toward that

one far-off divine event,  
To which the whole creation moves.

The next day was as sunny and as summery as our glorious holiday had been. The Sergeant-at-Arms accosted me in his most insinuating manner. "Say; don't you think the boys ought to be allowed out in the yard for an hour after work to-day? You see it'll be awful good for their health; they won't catch that scarlet bug, or whatever it is."

"Yes," I answered gravely; "it seems to me it would scare the microbes; in fact it's absolutely essential, as a health precaution. Let's go and talk to Grant."

So we conversed with Mr. Grant, the acting Warden; and the result was another fine outing in the yard. The next day a similar request was preferred.

"Look here," said Grant; "you don't expect to get this hour in the yard as a regular thing, do you?"

"Why not?" I asked in answer. "All the guards are here and can't get away. Better give them something to do."

Upon reference to the Doctor, he could not but admit that there was nothing better to be done in the way of preventive medicine. The guards on night duty had already reported a remarkable change in the cell-blocks; quiet, restful sleep instead of the long, wakeful, torturing nights. So again we had our hour of recreation.

Every afternoon, while that blessed quarantine lasted, we had the privilege of the yard; and such a physical change for the better I would not have believed possible in human beings. It was evident to the most casual observer. And day after day passed, with no fights, no disorder, nothing but the best of conduct.

Then came the day when that blessed quarantine was lifted; the joyous officers were released from their imprisonment; and the old schedule was put back in force. In spite of the continued fine weather, the prisoners marched back, at four o'clock, to their damp and dismal cells.

But it was evident to us all that it would not do; the blessings of liberty had been too patent. Some way must be found out of the situation; for no revolution moves backwards. Amid some grumbling from



a few of the stupider guards, a new time schedule was worked out and the hour of recreation became a regular and established part of the prison routine.

Perhaps the most striking single episode in the history of the Auburn branch of the League has been the Honor Camp. Twenty men were selected by the authorities of the League to form this road-building camp;—most of them with long terms, most of them men with bad official records, most of them men of sterling character according to the prisoners' standards. For three months they were in camp, working hard every day at road making, gaining health and strength, fighting each his own temptations and gaining the mastery of them; winning here and losing there, but all the time building up manhood and capacity to fight the battles of the world outside.

I have gone thus much into detail in telling of the beginning of the Mutual Welfare League because I esteem it of the greatest importance that the nature and plan of this organization should be fully understood; not only by its by-laws and methods of procedure, but the spirit underneath,—for there is danger of the form being copied without an understanding of the far more important underlying principles.

For over two years now the Mutual Welfare League has been in operation in Auburn prison. Mistakes have been made;—mistakes by the men and mistakes by the prison officials. Where is there a community which has not made its mistakes? The League has had its ups and downs; some of the prisoners have lost faith—usually because their own personal purposes have not been served. But in spite of its shortcomings, there has never been a day since it started that those who have been in closest touch with its workings have doubted that we were on the right path—that we had found the right solution of the prison problem.

## CHAPTER XXXVIII

### PROBATION AND PAROLE

#### 130. AIMS, STANDARDS, AND METHODS OF PROBATION AND PAROLE<sup>1</sup>

The words Probation and Parole<sup>2</sup> have been used interchangeably to so great an extent and are so closely associated in people's minds that it seems best to make clear the distinction between them at the outset.

To the person on probation the institution is but a threat; to the paroled person the institution is an actuality, a vital experience, which necessarily must leave an indelible imprint on his mental processes. His outlook upon society has been changed. His estimate of himself is altered.

The person on probation has remained an intrinsic part of the community. He goes along practically in the same sphere. The person on parole has been forcibly segregated from the social unit. He cannot get back to the same sphere.

The person on probation has been treated chiefly by moral suasion. The paroled person has had driven home to him society's determination to change him forcibly.

#### *Minimum Standards of Probation*

Probation as a recognized essential of a fully equipped criminal court's outfit is a development of the present century. In no more than three states had it been given legal standing of any sort prior to

<sup>1</sup>By Edith N. Burleigh, Chairman of the Committee on Probation and Parole of the American Prison Association. From *Journal of the American Institute of Criminal Law and Criminology*, Vol. XII, No. 3, pp. 320-329.

<sup>2</sup>*Probation* is conditional release of delinquents by a court without commitment to an institution, but under the oversight of a probation officer.

*Parole* is conditional release from a penal institution under the oversight of a parole officer.

The above definitions are paraphrased from Bernard Flexner and Roger N. Baldwin, *Juvenile Courts and Probation*. New York, 1914.—Ed.

1900; in only one was it in general operation. Reading the enactments of state legislatures since the century opened yields evidence that it has won a measure of recognition in nearly all the states. Examine the other side of the account. Strike a 1920 balance. Then it appears that as yet in only one state is it in complete use. In all the others it is qualified in these ways:

First, as to territory. Special laws have given it to specified cities, or to counties of over a certain population. Or general laws have made it optional, subject to acceptance by the municipality or the county or the court. In actual effect it has not reached all the courts, even in those states where it has been placed within their reach.

Second, as to the age of offenders. In the majority of the states it is available only for juveniles. Adult probation has yet to win what could be called general acceptance, either as a legally approved theory or as a device in actual operation.

Third, as to the seriousness of the offense. The fiction that the first offense has a fixed value as a measure of fitness for probationary treatment lingers in the laws of numerous states. Likewise, there is limitation to those offenders who have no prison record, a singular confession that even one prison term, however short, incapacitates a person for out-patient treatment, classing him as an incurable. And again, the possible application of probation is limited to those who have committed minor offenses—misdemeanants. This in face of the demonstrated fact that the highest percentage of clear rescues is reaped among those who have offended in the more serious ways.

To arrive at an understanding of the limitations of probation in practice, add the numbers represented in the following groups of offenders who are excluded from the possibilities of its benefits: Those who happen to offend in locations where the courts have not been granted or have not accepted the probation authority; those who happen to be over sixteen, or, it may be, fifteen years of age and have committed their offense in regions where adults are not reckoned as salvable; those who have offended for the second time and whose punishment is not to be withheld because of the refusal of the statute to allow a second test of comparative liberty; those whose offense exceeds a misdemeanor and chances to be committed within those wide areas where it is still the offense and not the offender that the court is required to consider.

The computation reveals that it is a meager minority of the persons brought to the criminal bar in the courts of the states who may be given experimental treatment to correct their behavior outside the fixed penalties of the code. It remains to add to this total of the excluded the entire body of offenders against the people of the United States as a nation, the federal courts not being clothed with the power to grant probation or to suspend the execution of the prescribed sentence.

It is to be borne in mind that the power to place on probation or suspend the execution of a sentence is not inherent in the court, but must be conferred by legislation. State supreme courts have so determined and finally the United States Supreme Court has settled that point by its decision in the Killits case.

Yet probation is a demonstrated success always and wherever it has been given a fair test. No state and no court once employing it abandons its use; and those states and those courts which adopt it and rationally use it, expand and extend it, consistently with their own discovery of its utility and effectiveness. Witness the region where it has so far passed beyond experiment that a settled practice places 25 per cent of all convicted offenders on probation against 8 per cent committed to institutions, penal or reformatory, and those states where the prison population at a given time is exceeded by the probation population in the ratio of five to one. In the city of Boston, which may be cited because it has the longest experience, the persons locked up number about three hundred and the convicts at large under probationary control number sixty-five hundred—one in jail, twenty in normal setting.

In view of a clearly demonstrated value in the use of this instrumentality and of the restrictions upon its application, convicted offenders overwhelmingly proving themselves responsive to the outpatient treatment, and only a fraction of them in the nation being permitted to make this demonstration, it is easy to set up the minimum in the movement for an enlightened criminal procedure. It is:

*Every court shall be clothed with the power to place offenders on probation.* This is the irreducible first step. And it is so far beyond what has yet been attained that the discussion of features, as to form of organization, the specifications for the superstructure, may well await, as to the most of our country, the placing of this foundation.



Turning to the regions and the courts where legal standing has been gained for probation, the question of minimum requirements becomes one as to mechanism. These are to be specified conformably, first, to common sense applied to the administration of any system of dealing with erring humanity, and, secondly, to the experience gained where the practice has become settled. They may be briefly stated as follows :

*A full knowledge by the court of the past of the offender.* Must it be said that this is not solely nor chiefly a revelation of his misdeeds? We are not looking for a limitation; we are looking for light. Guidance is wanted for a disposition of the case that will consist with a purpose to help the offender back to correctness of behavior, and thereby serve the only justifiable intent of criminal law, the protection of the state.

*A full knowledge of the present conditions of the offender.* This knowledge is essential to an understanding of his conduct and to any wise provision as to his future. Incidentally it has value as accounting for the particular offense under consideration. Here we are not seeking grounds for mitigation; we are looking ahead to a process of rehabilitation. This inquiry, of course, includes a determination of his physical and mental status. It has a remedial purpose. We are engaged in the task of setting a person right. The remedy may be physical treatment, as in the newest field of application, the existence of venereal disease. It may be mental treatment, even to the extent of commitment to institutions for the mentally defective or disordered. The possession of this knowledge with professional accuracy is an undebatable requisite.

Provision having been secured for full information in the court of the problem the case presents, we turn to the requirements for such supervision of the person placed on probation as the public interest demands. These may be briefly stated, even though each of the features to be mentioned could be discussed at length :

*The paid probation officer.* It may be taken as settled that this service carries with it such responsibility and involves such close attention that reliance upon voluntary service fails to meet the need.

*Direct responsibility of the officer to the court.* The probation officer is the extension of the court into the community, and there can be nothing short of unqualified control of his acts at the source of his authority.

*Eventual termination of the probation period.* The length of time required for dealing with the offender is not discoverable at the moment of beginning what is really an individual experiment. Elasticity in point of time is one of the prime advantages of probationary treatment as compared with a fixed term of incarceration. But at the moment of ascertained trustworthiness there must be a lifting of supervision and not a fading away of the court's authority over the person. This only is consistent with the right, clearly settled in the law, of every man to have the case against him finally disposed of.

As to the offender, the minimum is such conduct as conforms to reasonable requirements of correctness and propriety, and holds out distinct promise of future rectitude. This involves, of course, the power in the officer to surrender his charge, and the considerate but firm exercise of that power.

As to the officer, there are obvious character requirements—intelligence, an understanding of the problems he is to face—conceivably requiring previous study and training—a capacity for sympathy combined with firmness and diligence in order that there may be unflinching thoroughness in the exacting business of dealing with the person under his care and within his custody.

As to methods, the least requirements are (1) That they shall be friendly. The nearest approach to failure in probation work comes with the conception of it as a modified form of imprisonment. The probation officer is not a policeman, he is not a sleuth; he is an upbuilder. (2) That there shall be every safeguard thrown around the probationer against influences that tend to upset, as well as against exploitation and against effort, which may always be suspected, to treat him meanly and as different from human beings who happen not to have been called to account for wrongdoing. (3) Profitable and respectable employment. The experienced probation officer is a little better informed than anybody else of the truth of the saying that idleness is the devil's workshop. (4) Not the greatest, but a modulated and discriminating oversight, the end being to develop progressively the self-respect and the self-reliance of the probationer. (5) The enlistment of every available agency for the upbuilding of the man, the task which one of our philosophers has described as "the greatest enterprise in the world for splendor and for extent."

*Minimum Standards of Parole*

Parole is now an acknowledged part of the correctional system. This trial of the offender in the community, under the control and guidance of the law, has proved to be a vital part of reformatory treatment. Fifty years ago, when the Declaration of Principles was drawn up by this Association, parole was forecast in the statement, "The State has not discharged its whole duty to the criminal when it has punished him, nor even when it has reformed him. Having raised him up, it has the further duty to aid in holding him up." The laws governing parole in different states differ widely. This report is to discuss standards of parole—general principles whose application must be governed by the laws of the different states, but which can be accepted as generally applicable.

First of all, the institution should fit the inmate for parole. Parole must be considered not merely an adjunct to but the aim of the institution, since restoration of the inmate to the community as an integral part of it is the purpose of all reformatory treatment. What, then, have we a right to expect of the institution in this preparation for parole?

1. *The groundwork of all treatment must be a thorough understanding of the individual*, based on a knowledge of his past environment, and his family and personal history, including the circumstances under which his offense was committed. If his needs are to be met, there must be a sympathetic understanding of their sources. By whom this investigation is to be made depends upon the system by which the inmate gets to the institution; if he has been on probation, upon the thoroughness with which the probation officer has been able to go into the case, for instance. Usually any investigation previously made will need supplementing by the institution to gather all material for the thorough study of the personality made possible by months of institutional life.

2. *Physical examination*—to ascertain if there are possible physical causes of delinquency.

3. *Treatment of disease*. If a person is deprived of his liberty because he runs counter to the law, he has a right to expect that any physical handicaps he is under, which may be contributing causes of his delinquency, shall be removed before he is returned to the com-



munity to take up the responsibilities of straight living. The community also demands protection.

4. *Treatment and cure of venereal disease.* No one could dispute the need of diagnosis and treatment of venereal disease during the enforced segregation of the inmate in an institution. Progressive legislation in some states goes further and says that the inmate who is still suffering from venereal disease shall not be returned to the community until all danger of infection is over, even if the term of his sentence is past. This is a public health measure.

5. *Mental examination.* (1) To determine the mental accountability of the individual, and (2) to determine his abilities and disabilities, for the purpose of vocational guidance or its equivalent. This mental examination should not be solely for the purpose of ascertaining mental defect or disease, but in connection with the physical examination and the social history should be made a study of the personality—the key to the solution of the problem of reinstatement in society. It should help to an understanding of handicaps and possible development and should make clear the inmate's mental attitude and purpose. In his able report to this committee in 1914, Mr. Vasaly called attention to this need of "studying the prisoner's attitude and purpose" as a basis of training. We are beginning to realize that diagnosis of mental defect is not the entire answer to the problem, since the personality of one feeble-minded individual may make him very difficult to handle, while another equally feeble-minded individual, whose tendencies and characteristics are different, may not be a problem at all. Testing should probably be done soon after commitment, so that there may be time for checking up results by observation of inmate's development.

6. *Educational training.* To teach foreigners English, to eliminate illiteracy, and to prepare for citizenship. This opportunity for effective work in the educational field in guiding misdirected mental powers into the right direction should be a challenge to educators, so important is its effect upon the future of the individual inmate.

7. *Industrial training.* This is a most important equipment for life outside the institution. In most institutions a selection of trades or occupations to suit the capacity and interest of the inmate is possible. This selection does away with the irritation caused by misfits, and helps the officers of the institution to that visualizing of the man



outside the institution, essential to his return to society. The attitude of society towards him must be interwoven in the officers' imagination.

8. *Religious training.* There is no more effective way to open the individual's mind to the possibilities of a new life than through religious influences. Training in his own faith should be available in every institution.

9. *Instruction in meaning of parole.* It should be made clear to every inmate before he leaves the institution that a person on parole is still under authority, on trial in the community, before being completely restored to it; that there are necessarily restrictions upon his freedom. Parole is a test of his purpose. Does he intend to use his ultimate freedom rightly—to be a good citizen? It must be further made clear to him that he is assuming obligations to live up to certain requirements and standards.

10. *Teaching of principles of mental health.* The successful outcome of parole depends upon the possibility of changing the mental attitude of the offender towards society; of inculcating self-respect; of changing the current of his emotions (the action of most of us is governed by emotion); by making a man feel rightly as well as act rightly; by raising the level of his motives. Mental attitudes are most important to mental health and are determined largely by environment. Certain types of training such as "the development of wholesome interests and regular habits of attention and orderly association" are specially adapted to institution life. To develop the capacity and the will for service is to supplant the selfish anti-social attitude of the offender by the motive best calculated to make him a good citizen.

All this by way of preparation for parole. What have we a right to expect of parole?

1. A continuation of training outside the institution—a friendly oversight and guidance.

2. The providing of suitable work—work which the individual can do and likes to do.

3. Continued supervision of health conditions—to maintain the highest standard of efficiency and to protect the community from any danger of infection.

4. Continued educational opportunities—to encourage self-improvement and to stimulate ambition.

5. Continued industrial opportunities—to make the individual more and more self-dependent, and therefore to bring about more complete adjustment in the community.

6. Suitable recreational outlets—one of the most important functions of parole, since disposal of leisure time is the real test of desirability as a citizen.

7. Continued religious privileges—which should include social contacts.

8. Protection of the paroled person from exploitation—a man must have a fair chance if he is to “make good.”

9. Teaching of the application of the principles of mental hygiene—the formation and maintenance of good habits, and the understanding and acceptance of his position are important parts of this instruction. But most of all is necessary the continuance of the spirit of good will which he should have begun to acquire while in the institution.

10. Protection of the community by the return to the institution of the individual, who threatens its welfare either through danger of infection or of bad behavior.

There are several other matters pertinent to this discussion which should be considered.

First, as to the responsibility of the paroling authority. There is a growing acceptance of the view that the paroling power should be outside the institution, centralized in a parole board, for instance, since it is a judicial rather than an administrative function. There seems also to be a growing opinion that consideration for parole should not depend upon anybody's initiative, but should be automatic. At some definite time an inmate's name should come up for consideration.

One of the most important questions to decide is, What should be the basis for parole? All the facts of the person's life in the community, his success in the institution, his behavior—good as well as bad—his mental and physical condition, the conditions in the community to which he is to return, and especially his mental attitude towards his parole and his future must all be considered.

What should be the basis for return to the institution? is another equally important question. Commission of an offense should not be a final reason for return, nor should it be necessary to await commission of offense before return. The commission of an offense, or even arrest and conviction for an offense committed on parole, should have

no other weight in deciding the question of return than as evidence of behavior. The paroled person should be returned to the institution if he has a tendency to go wrong, or after warnings persists with bad companions, or if he disregards conditions of parole. He should also be returned if the condition of his health demands further treatment which cannot safely be given outside the institution. There is but one other point which should be referred to; that is, the training of parole officers. In Article VII of the Declaration of Principles there is a plea for "special training, as well as high qualities of head and heart . . . to make a good prison or reformatory officer." This is equally true of the parole officer. The article goes on to say, "Then only will the administration of public punishment become scientific, uniform, and successful, when it is raised to the dignity of a profession and men are specially trained for it as they are for other pursuits."

## CHAPTER XXXIX

### JUVENILE COURTS AND PROBATION

#### 131. THE EVOLUTION OF THE JUVENILE COURT<sup>1</sup>

##### *English Precedents and American Beginnings*

The history of the juvenile court covers less than a quarter-century, but its roots extend far back into English jurisprudence. That ancient institution, the English High Court of Chancery, keeper of the King's conscience, in applying the principles of equity to cases in which the rigid rules of law alone would not bring justice, was called upon to exercise the prerogative of the Crown as *parens patriae* in behalf of children whose property or welfare was in jeopardy. The English precedents for the exercise of the power of the state as ultimate parent of those who are unable to care for themselves and have no other lawful protectors have been stated by a number of writers on the juvenile court.<sup>2</sup> In the United States the power of the state as *parens patriae*—exercised through its representative, a court of chancery jurisdiction—to assume control and jurisdiction over the persons and

<sup>1</sup> By Katharine F. Lenroot, Assistant to the Chief, Children's Bureau, United States Department of Labor. From *Annals of the American Academy of Political and Social Science*, Vol. CV, No. 194 (January, 1923), "Public Welfare in the United States," pp. 213-222.

<sup>2</sup> See, for example, Julian W. Mack (formerly judge of the juvenile court of Cook County, Ill.), "Legal Problems Involved in the Establishment of the Juvenile Court," appendix to *The Delinquent Child and the Home*, by Breckinridge and Abbott. Charities Publication Committee, New York, 1912.

Bernard Flexner, "The Juvenile Court—Its Legal Aspect," in the *Annals of the American Academy of Political and Social Science*, Vol. XXXVI, No. 1 (July, 1910), pp. 49-56.

Supplement to *Annual Report of the Attorney General of the United States for the Year 1914*, pp. 17-45. Washington, 1915.

Edward F. Waite, District Judge of the Fourth Judicial District of Minnesota, *The Origin and Development of the Minnesota Juvenile Court*, pp. 12-17. State Board of Control, 1920.

Bernard Flexner and Reuben Oppenheimer, "The Legal Aspect of the Juvenile Court," *United States Children's Bureau Publication No. 99*. Washington, 1922.



property of minors was affirmed in a number of cases which arose during the nineteenth century. Among these were a Pennsylvania case, decided in 1838,<sup>1</sup> and an Illinois case, decided in 1882.<sup>2</sup>

The first step in modification of court procedure in children's cases—aside from the doctrine that children of tender years were not to be held "criminally responsible" for their actions—was taken in Massachusetts in 1863, when separate sessions of the court were required by law for the trial of juveniles. This precedent was followed in a few other jurisdictions. Massachusetts also led in the establishment of a probation system. Probation has been described as "an evolution of the common-law method of conditionally suspending a sentence."<sup>3</sup> Its development in Massachusetts through "judicial experiment," before statutory provision had been made, has been traced back to 1830, and in 1878 the Massachusetts Legislature passed the first probation law in any country.<sup>4</sup> Probation laws were also enacted in a few other states in the latter part of the nineteenth century. Under these laws providing for special sessions in children's cases and for probation, some of the principal features of the juvenile court were developed.

### *The First Juvenile Court Laws*

Twenty-three years ago<sup>5</sup> Illinois enacted the first law bringing under one jurisdiction—that of a court especially organized for children's work—cases involving delinquent, neglected, and dependent children.<sup>6</sup> This law provided for practically all the essential features of the juvenile court as it exists today. The jurisdiction conferred in children's cases was chancery and not criminal, the state thus acknowledging its obligation to save (not to punish) delinquent as well

<sup>1</sup> Ex parte Crouse, 4 Wharton (Pa.), 9.

<sup>2</sup> *McClellan Co. v. Humphreys*, 104 Ill. 378.

<sup>3</sup> Bernard Flexner and Reuben Oppenheimer, "The Legal Aspect of the Juvenile Court," *United States Children's Bureau Publication No. 99*, p. 8. Washington, 1922.

<sup>4</sup> F. W. Grinnell, "Probation as an Orthodox Common Law Practice in Massachusetts prior to the Statutory System," in *Massachusetts Law Quarterly*, Vol. II (August, 1917), No. 6.

<sup>5</sup> April 21, 1899. Laws of Ill. 1899, p. 131.

<sup>6</sup> Children's courts were established in South Australia by ministerial order as early as 1890, and were legalized under a state act in 1895. Bernard Flexner and Roger N. Baldwin, *Juvenile Courts and Probation*, p. 4, New York, 1914.

as dependent children. Separate hearings, detention apart from adults and probation were all provided—though the probation service, with the exception of that of police officers assigned to the court, was not at first paid from public funds.

A few days prior to the passage of the Illinois law, the Colorado Legislature passed a "school law" under the authority of which juvenile court organization in Denver was established in 1901;<sup>1</sup> a special juvenile court act was passed in 1903. That year also witnessed the passage of juvenile court legislation in several other states.

### *The First Ten Years of the Juvenile Court*

*Extension of the movement.* The principles expressed in the first juvenile court laws had been written into the laws of a number of states within a very few years. In April, 1904—just five years after the passage of the Illinois law—a report on "Children's Courts in the United States, The Origin, Development, and Results," to which Judge Lindsey was one of the principal contributors, was prepared for the International Prison Commission and published by the United States as a Government document. In his introduction, Mr. Samuel J. Barrows, Commissioner for the United States, said:

If the question be asked: "What is the most notable development in judicial principles and methods in the United States within the last five years?" the answer may unhesitatingly be: "The introduction and establishment of juvenile courts." Never perhaps has any judicial reform made such rapid progress. Beginning in Chicago in 1899, this institution has sprung up in city after city and state after state until it is now established in eight states and eleven large cities.

This progress has been made not merely by changes in procedure or legal technique, nor by the introduction of a new method; it is most of all by the introduction of a new spirit and a new aim.

By 1910, legislation authorizing probation in children's cases was in force in thirty-eight states and the District of Columbia.<sup>2</sup> However, in this first period juvenile court organization was developed mainly in the larger cities. The difficulties involved in extending the

<sup>1</sup> *Session Laws*, 1899, C. 136, p. 342. Approved April 12, 1899.

<sup>2</sup> Homer Folks and Arthur W. Towne, "Probation in the Juvenile Court," in *Proceedings of the Academy of Political Science in the City of New York*, Vol. I, No. 4 (July, 1911), p. 685.

benefits of the new legislation to small towns and rural communities were not seriously faced until later.

*Establishment of constitutionality of statutes.* Within ten years after the enactment of the first juvenile court law, the constitutionality of such statutes had been well established. A number of cases had been brought, in which juvenile court acts and similar statutes had been attacked on constitutional grounds, and it had been held by the overwhelming weight of authority that juvenile courts were not criminal in nature; and hence that they were not unconstitutional because of the informality of procedure or because of the deprivation of the right to trial by jury, the right of appeal or similar protection afforded persons charged with crime under the constitutions of the United States and the various states.<sup>1</sup>

*Development of methods of procedure.* The juvenile court was established under legislation that expressed a new idea in the judicial treatment of delinquent children, that of saving instead of punishing the child, and imposed upon a judicial agency new functions. The court itself, through its probation service, was to become one of the administrative agencies for the achievement of the end in view. The first juvenile courts had to develop new modes of preliminary procedure, new methods of conducting hearings; they had to extend the conception of evidence to include the social and personal facts concerning the child's environment and the child himself, and work out a technique for the gathering of such facts; they had to develop methods of supervision over children in their own homes that would by their results justify the probation system—a method of disposing of cases which, though not unknown, was in the main undeveloped at the beginning of the juvenile-court movement.

To perform these manifold and technical duties, the first courts had very meager staffs. It was natural, therefore, that they should rely for assistance in investigation and supervision upon private agencies—some already established and others called into existence by the

<sup>1</sup>"The Legal Aspect of the Juvenile Court," *United States Children's Bureau Publication No. 99*, pp. 9-10.

Julian W. Mack, "Legal Problems Involved in the Establishment of the Juvenile Court," appendix to *The Delinquent Child and the Home*, pp. 189-195.

Supplement to the *Annual Report of the Attorney General of the United States for the Year 1914*, pp. 17-45.

court's need for aid. In the east, child-caring agencies and societies for the prevention of cruelty to children, and, in the west, juvenile-court committees or juvenile-improvement associations or probation committees, furnished service of various kinds—the maintenance of detention homes, for instance, and probation service. In some cities the court work was done by paid members of the staffs of private agencies; in others, private individuals volunteered their services.

The importance of probation service and its public character was soon recognized, however, and in many of the larger cities it was not long before the private agencies were able to turn over the work of investigation and supervision to regular probation officers paid from public funds.<sup>1</sup> The agencies in most instances continued to coöperate with the court in many ways, but gave principal emphasis, as a rule, to preventive community work and case work with children who were in danger of becoming delinquent but who did not require court action.

The development of paid service was necessarily unstandardized, with respect both to qualifications and to technique, and the work was uneven. But the early literature of the juvenile-court movement reveals that judges and probation officers were, in the main, thinking constructively, in terms of the child and not of legalistic tradition. The judge in his informal hearing was endeavoring to gain the child's point of view and to make the child know that he was trying to be an understanding friend. The probation officers, and the judges too, were developing the system of reporting and of home visits; their purpose was not only supervision to keep the child from doing wrong, but constructive effort to enrich his interests, implant right ideals and encourage the formation of sound habits. It is of interest to note how early the coöperation of the schools was utilized; in fact, the report system was in some courts based largely on teachers' reports of scholarship and conduct.

These activities, however, were in the main based upon inadequate knowledge of the material with which the courts were dealing, and were carried on often by officers unskilled in social case work. Not until the close of the first decade of the juvenile court did scientific study of the child's mental abilities, personality, and mental life begin. In the words of the pioneer in this service, Dr. William Healy:

<sup>1</sup> See, for example, "The Chicago Juvenile Court," by Helen Rankin Jeter, in *United States Children's Bureau Publication No. 104*, pp. 5-6. Washington, 1922.



Scientific diagnostic study as a regular service for delinquents and for a court began in the juvenile court in Chicago in 1909. This work, which was started and continued under the name of the Juvenile Psychopathic Institute, was soon perceived to have much wider bearings and usefulness than study of merely psychopathic cases; the cases of quite normal offenders often justify as much, if not more, attention given them for the sake of effective understanding.<sup>1</sup>

Two other developments during the first decade of the juvenile court deserve special notice. In 1903, an act drafted by Judge Lindsey, making those responsible for contributing to the delinquency of a child guilty of a misdemeanor, was passed by the Colorado Legislature. This precedent has been widely followed. State supervision of probation work was originated in Massachusetts when the first state-wide probation law was enacted in 1880, and was carried on in that state by the prison commissioners until an independent commission on probation was established in 1908. The first independent probation commission, however, was created in New York in 1907, as the result of a thorough investigation of probation work in that state made by a special legislative commission appointed for the purpose.<sup>2</sup>

### *The Development of the Juvenile Court since 1910*

*Extent of juvenile-court organization.* By the end of the second decade of the juvenile-court movement every state but two had enacted laws providing for juvenile or children's courts. Such laws have been amended many times, as experience has demonstrated the need for modification or for additional provisions. Increased staffs and more adequate salaries have been provided. The early system of rotation of judges, under which each judge was assigned to the juvenile branch of the court for only a few months or a year, has been largely discarded in favor of longer assignments, permitting greater specialization. In some jurisdictions juvenile courts are independent of other court systems.<sup>3</sup> In such courts and in some courts which are parts

<sup>1</sup>William Healy, M.D., "The Practical Value of Scientific Study of Juvenile Delinquents," *United States Children's Bureau Publication No. 96*, p. 7. Washington, 1922.

<sup>2</sup>Charles L. Chute, *State Supervision of Probation*. State Probation Commission, Albany, 1918.

<sup>3</sup>The number of such courts in 1918 was twenty-two. See *United States Children's Bureau Publication No. 65*, p. 12. Washington, 1920.

of other systems, the judge gives his whole time to children's work. State probation commissions and other state agencies have been promoting the application of juvenile-court principles and raising the standards of probation service. However, the juvenile court has had to develop an organization and a technique in a new field, and in each state it operates under a legal system and with available facilities somewhat different from those existing in any other state. In consequence, the greatest variety in procedure and method exists.

In order to ascertain the extent of the development of the juvenile-court movement during the twenty years that had elapsed since its inception, the Children's Bureau of the United States Department of Labor in 1918 made a survey, through questionnaires and correspondence, of juvenile courts and other courts throughout the United States hearing children's cases.<sup>1</sup> Replies were received from 2034 courts. The most significant findings were as follows:

1. Ninety per cent of the courts addressed served areas in which there was no city of 25,000 or more inhabitants.

2. Only three hundred and twenty-one courts, or 16 per cent of those from which information was obtained, had even the minimum degree of specialization used as a basis of comparison; namely, separate hearings for children, officially authorized probation service, and the recording of social information.

3. All the courts serving cities of 100,000 or more population were specially organized, according to the above definition, and 71 per cent of those serving areas containing cities of from 25,000 to 100,000 population were so organized.

4. Only 16 per cent of the courts serving areas containing only small cities, and only 4 per cent of those serving only rural areas, were specially organized.

5. From at least one court in every state in the Union came reports of detaining children in jails; thirty-seven courts in eighteen states reported that no effort was made to separate children detained in jails from adult offenders, though in many of these states such separation was required by law.

6. Although juvenile probation was authorized by the laws of all but one state, only 45 per cent of the courts having jurisdiction over children's cases were known to have had probation service during the year for which the report was made.

<sup>1</sup> Evelina Belden, "Courts in the United States Hearing Children's Cases," *United States Children's Bureau Publication No. 65*. Washington, 1920.

7. Less than half the courts reporting probation work had regular officers giving full-time service paid for by the court.

8. Only 7 per cent of the courts reported mental examinations of children in clinics organized for that purpose or by persons more or less qualified to give psychiatric or psychological examinations.

9. The returns indicated that in many courts social records were very inadequate. A general lack of uniformity and a wide difference in definition, both in laws and in court usage, appeared to exist.

10. It was estimated that 175,000 children's cases were brought before courts in the United States in 1918. Of these, approximately 50,000 cases came before courts not having the minimum degree of specialization defined above.

These facts present the darker side of the picture. They show that the juvenile court is still in an early stage of development, and reveal the urgent need for further progress. Nevertheless, the picture has a brighter side. Encouragement is to be derived from the fact that after twenty years 125,000 of an estimated 175,000 children's cases were heard by courts with some degree of special organization; that such service has been extended to all the large cities; that children have to a considerable extent been rescued from the ordeal of jail detention; and that 45 per cent of the courts in 1918 had some sort of probation service.

*Broadening of jurisdiction.* In many states the jurisdiction of the juvenile court has been broadened to include children above the age limits set in the original laws, and classes of cases not at first included. In approximately one-third of the states, at the present time, the jurisdiction of the juvenile court extends to eighteen years or even to a higher age. A number of states give jurisdiction to juvenile courts in aid-to-mothers cases, and a few place adoption cases and cases of feeble-minded children under these courts. It has become evident, moreover, that in many instances the juvenile court cannot deal effectively with the child without exercising jurisdiction over parents and other adults, and so jurisdiction over adults contributing to delinquency or dependency has been vested in the juvenile court in the majority of the forty states that have enacted laws on this subject. Criminal courts, however, usually have concurrent jurisdiction with the juvenile court in such cases. In twelve states the juvenile court is given jurisdiction over desertion and non-support cases. It also has jurisdiction in some states over cases of offenses against minors which

do not come under the contributing to delinquency or dependency laws, and over violations of child labor laws. Clearly the tendency is to give general jurisdiction over all cases involving children or the relationship of adults to children to the juvenile court or to a court of domestic relations having jurisdiction over family problems.

*Unofficial adjustment of cases.* A very important aspect of the work of the juvenile court is the elimination of cases that do not require formal court action or prolonged treatment, and the unofficial adjustment of the problems involved in these cases. Such informal action saves many children from court hearing and adjudication of delinquency, and at the same time results in economy of the time and effort of the judge and probation officers and enables the court to concentrate on the more serious cases. The practice with reference to informal adjustment varies greatly in different courts; in some, more than half the delinquency cases brought to the court's attention are settled in this way, and in others practically no cases are handled unofficially. Unofficial adjustment is in harmony with the fundamental principles of the juvenile court only when the child's needs, and not the nature of the offense, determine the action taken. Too general use of the unofficial method, if based on inadequate knowledge, may result in failure to take effective action in the early stages of maladjustments which will perhaps become serious.

*The study of the child.* Although the fundamental concept of the juvenile court is that treatment shall be adapted to individual needs, the courts have been very slow to set up facilities for diagnosis. A brief examination of the home and the securing of general facts regarding the child's reputation and conduct have afforded in the vast majority of cases the only data available for the judge's guidance in making his decision. Even where attempts have been made to ascertain by expert study the condition of the child, these efforts have frequently been limited to a physical examination and routine mental tests—as if the level of intelligence alone, apart from the will, the emotional make-up, and the other dynamic factors of mental life, were the determiner of conduct. Moreover, the study of the environmental factors represented by the social investigation and the psychological study have often been entirely dissociated, their results to be united only by the judge at the time of the hearing. Only a few courts—for example those in Chicago and Boston, and for a period those in Seattle



and the District of Columbia—have been able to give practical recognition to the importance of scientific study of all the associated factors of conduct.

*The socialization of court procedure.* Juvenile courts, operating in most instances under equity jurisdiction, are relatively unhampered by tradition and precedent. In delinquency hearings the determination of the facts of the offense constitutes the least difficult and the least important part of the procedure. It has been the experience of a number of courts that at least nine-tenths of the children readily admit that they have committed the offense alleged. The more important function of the judge is to weigh the results of the social investigation and physical and mental examinations, determine what the needs of the child are, and then decide upon the treatment.

As an aid to ascertaining the facts and winning the child's confidence and coöperation, the hearing of girls' cases has in some courts been delegated to a woman referee. In California, statutory provision has been made for the appointment of a paid woman referee for the Los Angeles court. She hears all cases of girls and of boys under the age of thirteen years. In San Francisco an unpaid woman referee—a member of the probation committee—hears girls' cases. The Chicago, Cincinnati, and Detroit courts are among those which have delegated referee powers to a woman probation officer.

*Probationary supervision.* Probation has from the first been looked upon as the keystone of the juvenile court. It is and must remain the judge's chief resource. As a result of more than twenty years' experience, methods have been tested and the main principles of technique formulated. General agreement may be said to exist, for example, with reference to the following propositions:

1. Effective probation service means regular, paid service, either full time or (in rural communities and small towns) in connection with other social work requiring similar qualifications and approach. Volunteer service is effective only when supplemental to paid service.

2. Probationary supervision requires the application of the principles of social case work, and training and compensation at least equal to that demanded for case work with families or other specialized work in the social service field.

3. Probation often involves the reconstruction of the child's family, school, vocational, and recreational relationships.

4. Probation can be effective only as it enlists all the available resources of the community.

Although these principles have received fairly general recognition, the means for their application are in many courts insufficient. Often the prime essential—a staff of workers fully trained and qualified—is difficult to secure, owing to faulty methods of selection or to the inadequacy of the salaries allowed. In addition, the number of probation officers is frequently far too small. Although it is generally agreed that from fifty to seventy-five cases are all that one probation officer can handle effectively, this standard is rarely adhered to, and in many courts each officer is required to supervise from one hundred to two hundred children on probation.

Provision for the training of probation officers<sup>1</sup> after their entrance on duty, and for the general supervision of the work of the probation staff, is inadequate in the majority of the courts. As a result, work is frequently uneven; probation periods are unnecessarily prolonged; and friction within the staff and complicated relationships with outside agencies and institutions sometimes develop. Far too often, in undertaking the supervision of a new case, the probation officer fails to perceive clearly the fundamental problems involved, and to make a definite plan for remedial action. Effective base supervision tends to promote constructive work at the beginning of a case, and so to lessen the chances of failure and shorten the period of probation required.

*State promotion of juvenile-court work.* The work of the Massachusetts and New York Probation Commissions in promoting juvenile-court and probation standards has already been mentioned. The New York commission has carried on local campaigns to introduce and extend probation work; it makes investigations and recommendations concerning the work of individual courts, publishes record forms and educational pamphlets, aids in conducting civil service examinations, holds conferences of probation officers, and performs many other services.<sup>2</sup> The Massachusetts commission has similar functions, and in addition maintains a central record of cases known to the courts of Greater Boston and a number of neighboring cities. In a few other states some measure of state control has been exercised for a number

<sup>1</sup> Bernard J. Fagan, *Administrative Problems in Probation Work*. Albany, 1922.

<sup>2</sup> Charles L. Chute, *State Supervision of Probation*. Albany, 1918.

of years. Indiana in 1921 enacted a law providing for state supervision of probation work through a state probation officer and an advisory juvenile commission.

In the last four or five years a most significant type of state promotion of juvenile courts and probation has been developed in a number of states; its main purpose is to raise the standards of juvenile-court work and provide a means for extending juvenile-court organization to rural communities. Frequently the work is carried on through state departments in coöperation with county public-welfare or child-welfare organizations. Aid rendered juvenile courts includes preparing forms to be used, developing community coöperation, securing appointment of probation officers, training probation officers, publishing educational literature, and advising and assisting in difficult cases. Among the states in which such work, under state or state and county auspices, is in progress or planned are Alabama, Arkansas, California, Georgia, Minnesota, Missouri, Nebraska, North Carolina, Pennsylvania, and Virginia.<sup>1</sup>

This recent development of state assistance in the extension and standardization of juvenile-court organization makes feasible for the first time, in many states, an attempt to afford juvenile-court service to all the communities in the state. Many difficult problems must be faced in rural juvenile-court organization. The unit of jurisdiction must be sufficiently large to permit of specialization, and at the same time facilities must be made available to all parts of the area served. A circuit system of holding court and the referee system afford possible solutions. Because of the small number of children's cases, probation must often be united with other types of social service. The problem of detention in rural communities is a baffling one, which is sometimes met by the system of detention in private family boarding homes. Facilities for scientific study of the child are still beyond the reach of the majority of courts serving small cities and rural areas. The development of a state system of traveling clinics will perhaps prove to be a means for meeting this need. In most states juvenile-court laws are nominally state-wide in their application, but many problems must be met and solved before they become state-wide in reality.

<sup>1</sup> See "County Organization for Child Care," *United States Children's Bureau Publication No. 107*. Washington, 1922.

132. SCIENTIFIC STUDY OF JUVENILE DELINQUENTS<sup>1</sup>

*The juvenile court itself.* When operating effectively, the juvenile court together with its agencies has the chance to check and prevent the development of criminal careers vastly more than other courts. If it succeeds, it renders to the delinquent and to society a service that is great indeed, because of the very fact of the moral and economic expensiveness of continuance in delinquency. If it fails, much has been lost because the conditions of causation, bound up so strongly with the possibilities of prevention, are many times more readily alterable at the juvenile-court age than ever again.

The purpose of the juvenile court has all along been quite clear. Differing from courts established under the criminal law, its business is not to follow set forms of treatment of offenses. Its idea is individualization both of understanding and of treatment. Of course, the juvenile court is part of the social machinery for the prevention of delinquency as a measure of public welfare, but in the very accomplishment of this it has, explicitly or implicitly, to seek the welfare of the individual. And so it is that in dealing with the fact of delinquency in the juvenile court, inevitably the prime consideration is the offender as a person.

Had attention been well directed to the great social problem of crime, it could have been understood ages earlier that it is during the youthful, formative periods of life that tendencies toward social misbehavior begin, and that this is the time of times in which to gain understanding of causes and beginnings and is the time in which to thwart such warpings of character and habit.

Studies of actual facts teach nothing if not the importance of treating with delinquent tendencies in youth. Whether we turn to convincing earlier statistics from abroad or to the work of Glueck in tracing backward the careers of Sing Sing prisoners, or to recent studies of the later life of youthful offenders in Chicago seen at the Juvenile Psychopathic Institute, it stands out clearly that criminal tendencies and careers with astonishing frequency begin in childhood or adolescence. And, after all, why should we expect it to be other-

<sup>1</sup> By William Healy, M.D., Director of the Judge Baker Foundation, Boston. Adapted from "The Practical Value of Scientific Study of Juvenile Delinquents." United States Department of Labor, *Children's Bureau Publication No. 96*. Government Printing Office, Washington, 1922.



wise? Do we not know well enough that in all of us the development of behavior tendencies, the set of our own characters and of our own habits of thought and action begin long before adult life?

Although existing in some places as an offshoot of other courts, the peculiarly basic work of the juvenile court does not allow it to be regarded fairly as any addendum to another court. Properly it should require of the judge more thoughtfulness, a wider education in the human sciences, more shrewd discernment, more close reasoning on the relation of theory, fact, and proposed treatment to outcomes than is demanded in any other court. And all this just because of the wide range of scientifically ascertainable conditions, motives, and influences leading to juvenile transgressions, the wide range of treatments possible, and the very absence of the fetish of unscientifically concocted forms and codes of practice and procedure, which in some other courts form such a drag upon effective dealing with offenders.

*Methods of the court.* The work of judges in juvenile courts, and of other officers of the law making decisions there, proceeds very largely in accord with personal tendencies and moods. Immediate treatment of the case, to be specific, is (1) sometimes by the methods of personal appeal—by warning, exhortation, scolding, sermonizing, threatening—or (2) frequently by a direct attempt at a shrewd guess concerning what should be done in the case, of course with the help that observation in the court room offers. (3) Sometimes there may be fairly prolonged weighing of the meager facts that have been obtained; occasionally there is a demand for more data, but (4) often the treatment is left to the judgment of probation officers, with the feeling that in the court room there is so little opportunity for learning all the facts necessary for satisfactory adjustment.

At any rate, it is most significant that individuals are passed with comparatively great rapidity through a court procedure that ends often in a judgment rendered which, one way or another, is of the greatest import in constructing the behavior tendencies of a life. And, it should be noted, it happens sometimes that an apparently milder or more negative decision, such as placing on probation, is a decision of the most positive import for the bad, as when it means sending the individual back to deleterious influences, perhaps unknown to the court because of incomplete studies of the causation of delinquency.

Deciding treatment that is tremendously influential at the formative period of life vastly outweighs in importance in the world of realities any decision of a criminal case that may take weeks in court or perhaps fill pages of the newspapers.

*Principles of scientific study of delinquents.* The manifold practical issues that are intrinsic in juvenile-court cases not only justify by their importance careful case study, but make it an absolute necessity, if exceedingly significant conditions are not to be overlooked.

Unfortunately it is not yet grasped by many as a matter of shrewd common sense that the practical aspects of delinquency really are manifold and that manifold though they are, knowledge of causations and carrying out a diversity of treatment is thoroughly practicable.

Indeed, not foresighted in the sense of the best conceptions of the juvenile court is the procedure that fails to appreciate acquirement of enlightening knowledge of the delinquent and his background or to demand the attempt at adjustment through the many constructive possibilities as well as through restrictive measures. It is the very richness of the outlook that presents itself during scientific case study (and really scientific study can mean only well-rounded study) that, more than anything else, justifies undertaking it.

Classification by "intelligence levels" or by these other categories does not and never can represent the whole individual, or even the elements most essential for the student of delinquent tendencies to know, such as the individual's habits of mind and body, the forces which drive him, his motivating experiences, his reactions to his environment, his ideation as related to delinquency, causations in the environment itself, his special resources of mind and body that can be utilized for reeducative treatment.

For the sake of mental classification (invaluable though it is positively and negatively—of course we need to evaluate the human material we are working with) we cannot throw away the everyday knowledge of many generations that there are forces operating both from without and from within which are the decisive factors in the formation of delinquent trends. It is to the better understanding of these forces as well as of the individual's capacities that we must address ourselves. It is for this that we bespeak the value of scientific studies of individual careers, of all that goes to make a delinquent what he is in his behavior tendencies.

*Working values of scientific study.* The working values that accrue even through scientific knowledge of personality alone were impressed on the writer from the day of beginning in the Chicago court.

The very first case studied was that of a girl about whom long columns had appeared in the newspapers; she disappeared from home and when found made startling and apparently important statements which included an account of her own deliberate sex misconduct. Not insane and not feeble-minded, we found her, nevertheless, to be a most peculiar person who had been influenced recently by emotional stirrings to the extent that she felt some sort of impulsion to thus allege herself immoral and to make most serious charges against others. Our study, aided by a short investigation, quickly set the whole affair in its right light and the girl quieted down and told the truth. It had been quite different in the case of her neurotic mother, we learned, who, unrecognized as an abnormal personality, had been the cause of serious hardships experienced by a couple of good men in a certain church circle where she had made false allegations. It is a matter of great interest that the girl herself ever since has been known for what she is and that when several peculiar situations have arisen as a result of her conduct, her case has been effectively handled by officers who have had to guide them knowledge of the fundamental feature of the situation, namely, her personality.

In great practical contrast, especially from the standpoint of public economy, was the case of a young woman which appeared in the adult courts in Chicago a year or so later. She made terrible accusations against some prominent people and the matter was heard at great length with very puzzling evidence presented in court. But the girl's first deposition and the character of her injuries would have made it quite easy for any experienced student of abnormal psychology to determine the true nature of the case. Had there been any chance to act as friend to the court one might have made the situation plain to the judge as it was made clear to a certain group of people who asked professional advice for determining their sympathetic attitude toward the case. As it was, certain pathetic circumstances and the girl's strong statements won for her a public following of really good people who through general ignorance of such personalities and the fact that no one acting as friend to the court made any study of her personality trends, pushed public opinion strongly in her favor. *The trial of this case cost the State over \$15,000 and the outcome was nil.* Very few of her sympathizers ever realized that she was an hysterical false accuser and self-mutilator.

Or take another very simple instance; shortly after we began work an experienced officer said that since we were interested in delinquents he would bring in what he and his colleagues called their best example of the criminal type—"This boy is a genuine, born criminal." But five minutes'

observation showed the lad to present the signs of juvenile paresis, with eyes not reacting to light, with absent knee jerks, etc., a victim of congenital syphilis—a boy with a nervous system as thoroughly diseased as it could well be and leave the patient active, merely appearing to be a desperate conduct problem.

For those doing even the simplest scientific work among delinquents, the citation of such obvious examples from the material of ten or twelve years ago is quite unnecessary—there is ample recognition nowadays of what such human problems may signify, and there are already established many centers for examination of such cases. But taking the country over, a vast number of peculiar individuals do even nowadays pass along through courts quite unrecognized for what they are.

*The field for scientific study.* But scientific study should not be limited at all to such psychopathic material, nor to personality from the standpoint alone of abnormal psychology. The frequency with which mental defectives and the psychopathic appear before courts is enough to justify diagnostic examinations, but certainly studies should not be confined to these classes—by no means the largest proportion of youthful delinquents as seen in courts are abnormal mentally. There must be equal interest in anything causative that involves the individual or that has influenced him.

Adequate practical study means no short routine of examination, whether in giving age-level tests that do help as a part of mental testing, or in giving a physical examination—that rarely indeed throws light on the causation of delinquency. Courts that begin with such examinations or with having special blood tests made, etc., examinations, of course, so important in many ways, should have clear insight into the limitations of such humanitarian work as sources of information that really help in the effective treatment of conduct problems.

Adequate study means finding the influences at work in the delinquent's life, influences perhaps remaining over from early childhood experiences or arising perhaps from family conditions on the basis of which grudges are formed (on the day this was written there was brought to light in court here a semiprofessional career with just such an antisocial foundation), influences perhaps from hidden bad habits, or involving matters of frequently recurrent ideation or impulse—adequate study means finding any of a thousand and one condi-



tions and experiences, the existence or absence of which one cannot tell beforehand.

Nor can the individual be studied apart from his setting, his environment, any more than a biologist can hope to know what conditions the behavior of a starfish by studying it in fresh water or as taken from a laboratory jar of alcohol.

We are properly concerned with the study of delinquents that takes in enough points of view to lead to such a rational explanation that effective treatment can be prescribed therefrom.

As has been pointed out many times, it is very rarely that any one factor in the background can be reasonably selected as the sole cause of delinquency—the fact is that usually several causes are interwoven. Now, there is no way of evaluating or indeed of knowing at all many of these causes, except as one ascertains them by a thorough analysis of the situation and then studies them in the light of their influences on the mind and so on conduct.

A careful study of even a few of the simplest cases of stealing, for example, shows motives so different, shows such variations in impulse. in personality background, and in the stealing as phenomena of reaction to environment, that good sense itself calls for knowledge of causation and personality in every case in order to have any clear idea of how effectively to combat the delinquent tendency.

*General relation of delinquency to mental life.* Scientific study of social behavior is builded foursquare upon the fundamental fact that conduct is action of the body and the mind. All conduct, of course, directly emanates from mental life. And many elements and conditionings of mental life are concerned in that product of mental activity which we call social behavior.

The many studies of exterior conditions or physical states or personal habits which have been or are being made of delinquents are not to the point if they are not interpreted in relation to actual causation of the delinquent's misbehavior. Nothing is any more striking to the careful student than the fact that reactions between personality and living conditions are not fixed and are not a priori predictable. Poverty, in one case a stimulus to formation of fine character tendencies, in another instance is the motivation of even major crimes. Bad neighborhood conditions in some cases result in disgust rather than in acceptance of local standards of morality. Adolescent striv-

ings and aggressiveness may lead in a direction of ambition and fine accomplishment, or may find outlets largely in delinquent trends. And so on through practically the whole list of possible causations of delinquency.

The only direct means of knowing the forces actually operative in a given case is through study of the mental life, the definite directive agent of conduct. This is the realm of a practical psychology, which takes into account mental capacities, mental balance, instincts, impulses, the impress of experiences, and the many elements of conscious and subconscious mental activity.

*Mental defect and delinquency.* At present the most generally recognized function of scientific study of delinquents is determination of mentality in terms of normality or feeble-mindedness. This is a most important task because, without such study, in spite of the belief of some that they are able to detect feeble-mindedness by physiognomy and other appearances, it is not possible to classify individuals mentally. Appearances are often misleading.

It must not be assumed from the above that the place for all mental defectives is in institutions; even some of the definitely feeble-minded show good character traits, perhaps have been brought up under good moral conditions and have responded well. Here again, it is a study not of the individual alone, but of the interaction between the individual and his environment.

*Proportion of defectives among delinquents.* For the sake of fairly sizing up the facts in general concerning mentality and delinquency we have gone into the matter of mental abnormality with much care. (By abnormality is meant either (1) mental defect or (2) mental aberration; that is, psychosis, insanity, or severe psychopathic conditions.) In two Chicago series, each of one thousand young repeated offenders, only about 67 per cent and 75 per cent, respectively, could be diagnosed as clearly normal.<sup>1</sup> Of the abnormal, the larger proportion consisted of mental defectives; a much smaller number represented cases of mental disease. Dr. Bronner<sup>2</sup> surveyed five hundred

<sup>1</sup>For detailed figures see "Youthful Offenders: A Comparative Study of Two Groups, Each of 1000 Young Recidivists," by William Healy and Augusta F. Bronner, *Proceedings of the Second Pan American Scientific Congress*, Washington, January, 1916, or *American Journal of Sociology*, July, 1916.

<sup>2</sup>*Journal of American Institute of Criminal Law and Criminology*, November, 1914.

delinquents as they came into the Juvenile Detention Home, including first offenders, and found that very probably 9 per cent of these were defective to the degree of feeble-mindedness. Recently the Judge Baker Foundation has been doing much more intensive work and in a series of one thousand young repeated offenders in Boston percentages are found quite similar to those of the Chicago series—the defectives form 22 per cent, among these the clearly feeble-minded who should undoubtedly be educated and protected in a suitable institution being 12 per cent of the whole number; the aberrational cases were about 2 per cent.

Since the most widely recognized grading of "general intelligence" at the present time is according to the Stanford revision of the Binet-Simon age-level scale (imperfect though we readily acknowledge this to be), it may be worth while giving a graph of our findings according to this scale of mental tests. But it must be emphasized that for practical diagnosis there is much else of value for which other tests should be given to delinquents—getting an "intelligence quotient" forms only one part of a good schedule in testing. And, then, tests themselves do not form the sole criterion of diagnosis.<sup>1</sup>

If, as usually reckoned, all having an I.Q. below 70 are pretty surely feeble-minded, then 7 per cent of the total number belong in that category. But at the other end of the scale we find that no less than 8 per cent—those above 110-I.Q.—are supernormal. To be sure, some of the 16 per cent falling between 70 and 80 I.Q. would be classed by us as defective to the degree of feeble-mindedness, but there is all along the line a great need for interpretation according to language and school advantages and our final groupings do not at all necessarily coincide with the I.Q. classifications. However, these figures serve to bring out clearly the main point, namely, the astonishingly wide range of mental ability which delinquents present—some of them ranking twice and more than twice as capable as others. The implications of these great differences, and indeed of lesser variations, should be very clear in the endeavor to bring about adjustments so that their behavior tendencies will approach normal.

The striking fact brought out by these and other studies of the mental capacities of series of delinquents is that a much larger proportion of mental defectives is to be found among delinquents as they

<sup>1</sup> Compare *supra*, Chapter XIII.—Ed.

appear in court than in the ordinary population, perhaps ten times as many.<sup>1</sup> And this, of course, is highly significant. But since it is well known that some individuals of very limited mentality maintain themselves in the world without misbehavior and, indeed, sometimes show very good character traits, from the mere fact of deficient mentality the outcome in behavior cannot be predicted. In other words, even a defective individual cannot be considered apart from any special capacities which he may have, such as special abilities in mental powers or assets of personality, or apart from formative experiences and the influences of his given environment.

This is mentioned particularly because of the great emphasis that lately has been placed on findings on test of "mentality." Too frequently mental ages or "Intelligence Quotients" are cited as if these offered a complete guide to prognosis and treatment, and answered exactly the problem of responsibility of the individual. A little reflection upon the fact that individuals mentally normal, some even very bright, are misdoers for reasons quite apart from matters of mental capacity and that many feeble-minded people live decently and do their work in the world very well, should indicate how necessary it is to cultivate knowledge concerning causations of delinquency and discrimination in rendering judgments which prescribe some form of treatment.

*Elements of mental life related to delinquency.* An enumeration of the main categories of qualities and elements of mental life that in practical studies of delinquents have been found to have to do with conduct may be valuable here, perhaps, for reference. It is not to be supposed that all of these categories can be successfully inquired into by anybody except some one with interest and training in these matters and with sufficient time, which usually is well within feasible limits. But thoughtful consideration of these classes of facts will serve to enrich the knowledge and aid the everyday judgments of any who wish to deal understandingly with delinquents. There are:

<sup>1</sup> Perhaps the reader has noted the great variations in stated percentages of mental defectives among delinquents, as given by different investigators. The main cause of this is that examiners have neglected to call attention to the fact that special groups are highly selected—delinquents in institutions are almost entirely those who have failed on probation, and, of course, have more defectives among them. This selection is itself from an already selected group; even delinquents as seen in court are merely the offenders who have been caught.



1. The problem of mental capacities in terms of standardized norms as far as these have been established. This should mean mental capacities not only estimated as so-called "general intelligence" according to some age-level scales of a special limited group of tests, such as the Binet system and its modifications, but also as measured by the performance on other tests which indicate special abilities or disabilities, many of which are most important for success or failure in school or vocation or other social adjustment. The interpretation of test findings is a difficult matter; it demands training and experience.

2. Then there is the problem of mental balance. This runs all the way from such constitutional states as hyperexcitability, or from temporary states of lack of self-control, such as are exhibited oftentimes following chorea or as adolescent phenomena, to the chronic psychopathic conditions and to out-and-out insanity or psychosis.

3. Certain dynamic qualities of mental life, such as states of temporary or constitutional lethargy and laziness, as contrasted to alertness and forcefulness, etc. One is concerned here with the problems of the extent to which the individual uses the capacities with which he is endowed. Even feeble-minded persons may be energetic mentally and, of course, many a normal person is lazy in the use of his talents.

4. The qualities of mental life which are subsumed under the head of personality characteristics. These are many, forming long lists as developed by special students of the subject. Bearing particularly on delinquency are such traits as love of adventure, egocentrism, revengefulness, stubbornness, rebelliousness, etc. But the good character traits, such as loyalty, generosity, kindness, responsiveness, etc., must not be overlooked. They are equally important for prognosis and for determining the value of the expenditure of effort in social treatment.

5. Certain traits and trends as related to characteristics of the individual's group are sometimes important for the production of delinquency. Does he show special reaction tendencies, not in themselves abnormal, perhaps even in connection with his ambitions, which cause him to fail to adjust so markedly in his immediate circle, in his family or school life, that misconduct results?

6. Of immense significance frequently for the student of delinquency is the mental content—ideation or imagery. Just what comes into the offender's mind that tends to result in delinquency? Some-

times, certainly, the urge is from within. What is there forming the substance of his conscious thought or of his mental pictures, often so intimately related to his delinquency? Is it something that he remembers as having seen or heard or read or imagined?

In considering this aspect of mental life, however, one must also be on the lookout for definite mental vacuity, lack of healthy mental content, absence of ideas and normal mental interests. This is a striking finding in some individuals, accounting for the ease with which bad influences slide in and take hold.

7. Some experiences, from without or even internal, which have been peculiarly fixed in the mind by accompanying emotional states and which are repressed can subconsciously become actuating forces of conduct. This matter of mental experiences plus repressions is worthy of much attention in many cases showing the most persistent trends toward delinquency. It is especially of importance because the discovery of this specific cause of misconduct may often be the means of a quick checking of the misbehavior or, at least, may be the basis of an effectual reeducative process.

8. The fact and force of mental habit should never be lost sight of either in considering the main causes of repeated delinquency or in thinking of what to do in working for the delinquent's reformation. Whether tendencies are deep-set in the sense of being habitual is a matter of great importance in the outlook.

9. General mental attitudes, such as grudge formations against individuals or groups or against society as a whole, or intense dissatisfactions, may be most important to unearth for the understanding of conduct. Of course, peculiar mental attitudes may be largely dependent on personality characteristics, but they may be induced by special environmental conditions and maladjustments, and particularly by the hidden experiences and sore spots spoken of in the preceding paragraph. At any rate, such attitudes and their causes badly need recognition in order that there may be appropriate prescription of mental and social therapy.

10. The mental impulses which in rare cases make for delinquency in a powerful way should also be a subject for skillful interpretation. Impulses toward wrongdoing sometimes amount to out-and-out obsessions, with recurrent ideation or imagery, which the individual may sometimes be able to fight off and sometimes not. In

other cases the ideation or impulse arises only in the face of a given situation, usually a special chance or opportunity for the given kind of delinquency toward which the individual has impulses. Frequently the genesis of the impulse can be traced, and the value of doing so is proved by the change in conduct which so often occurs.

*Mental life specifically related to delinquency.* Just because it is mental life which always stands directly back of conduct, and because nothing in the outer world makes for misconduct unless it influences the mind first, just because of this sequence established in the very nature of things, we may theoretically expect to find, and we actually do find, our best diagnoses in any instance of delinquency arising from consideration of the situation in terms of the outline of mental life given above. Here is the make-up of the individual and here are the directly dynamic elements. Knowing these, a much fairer estimate of the outside factors may be made, as they really are influences and as they have to be thought of for adjustments. This is much more valid than generalizing about bad influences of one sort or another. As a matter of fact, many of the external conditions absolutely necessary to be altered for a successful outcome are only to be known as true causations through sympathetic inquiry into the mental life. Hundreds of illustrations might be given of the general value of this approach (indeed, all the cases cited bear on this point). In many instances the really enlightening information first comes through learning what the individual has in his mind that steers him toward delinquency.

*The many factors implicated.* Perhaps enough has been said above to indicate that scientific study of delinquents cannot possibly leave out of account the forces or the negative elements in the individual's experiences and environmental life which in any ascertainable measure have tended toward the production of his delinquency. No careful evaluation of causes or of the outlook can afford to neglect any of the possible factors such as companionship, street life, poor parental understanding and control, vicious example in the home, special temptations that are offered through unfortunate recreations and occupations. But, as before stated, many of these are only to be recognized as actual pernicious forces through discovering their specific effect upon the individual, upon his mental life, modifying his ideas and impulses in the direction of delinquency.

Not only the varying nature of the data necessary for explanation of the delinquency but also practical outcomes as related to causation could be given in many illustrations. Often greater changes in behavior could be obtained if other and better avenues for treatment were open, if in public and private institutions and under established routines of endeavor with delinquents there were cultivation of an understanding of the scientific facts implicated in each case. But even with things as they are, greater accomplishment is possible in any jurisdiction dealing with juvenile delinquency. The way to get better resources for treatment is to know causes and show the value of meeting causes.

Cessation of the delinquency is the desideratum, not the scientific facts in and for themselves; the aim is to cure. With this in mind one must balance carefully what is causative and alterable in the environment and what is not, and what is causative and possible to influence in the inner mental life and what is not. An admixture of factors is the rule, and in considering adjustment of the case the whole picture properly is to be contemplated.

*Examples of summaries of cases.* In the endeavor to get the case clearly in mind for ourselves and for the judge who refers it (or for the parents or agencies who in not a few instances are the first ones to bring in even severe problems in delinquency), we are accustomed in conference to develop a summary of our findings. This is done after the separate studies are ready to be put together. Of course, such summaries differ greatly in complexity and length as written up for use. Examples read as follows:

### SUMMARY

(Not for public files.)

1001

Joe Doe.      Age 13-15.      November 21, 1920.

*Physical:* Very poor general development. Poor nutrition and strength, but upright attitude. Responsive expression, rather strong features.

*Mental:* Grades as supernormal on age-level tests. Works very well with concrete material. Good in learning ability, especially for ideas. Somewhat retarded in school, but no disability for any type of school work. Comparatively poorer in apperceptions. Very friendly. With us interested in mental tasks and works well. Reported very repressed and quiet at home.



*Delinquencies:* Excessive petty stealing from home. Much sleeping away from home during the last three years. Earlier frequent truancy.

*Background:* (1) Heredity: Father decidedly bad-tempered and mother nervous and irritable. Families otherwise reported negative. (2) Developmental: Scarlet fever severely at three years. Enuresis began at eight years and continued. (3) Home conditions: Poorly kept; mother away much in store with father. Frequent quarreling and bad temper in the home. Decidedly irregular living conditions—family absorbed in getting ahead. (4) Habits: Tea and coffee in excess. Sex habits. Smoking.

*Direct causation:* (1) Neighborhood companions with whom he began stealing and from whom he received early (2) bad sex knowledge. On the basis of this there has arisen a definite (3) mental conflict. Boy gives a very clear account of this and of his ideation—sex words associated with thoughts about stealing. (4) Unintelligent home control and discipline. Much afraid of his harsh father. (5) Earlier school dissatisfaction due to the boy's great dislike of a certain teacher.

*Outlook:* Clear that this boy has many needs and that conditions under which he has been living are extremely unfortunate. His family has taken a strong attitude against him without knowing anything about the experiences he has had or the causes back of his behavior. They have not made the least attempt to live in better neighborhoods, though they know the boy has associated with bad companions. Unlikely that he can make good under present family conditions and in the neighborhood where he has had so many bad experiences. Should be placed in another home and receive aid in overcoming his sex habits, then his enuresis may cease. Altogether he should improve much after this exploration of his conflict if he has any sort of chance to build up other and better ideas and mental interests. Could well be pushed ahead in school. He naturally has good reading interests and is interested in boys' clubs. For general upbuilding should recommend good country home, stopping smoking, and should not be allowed tea and coffee. His native ability and many good traits ought to make it possible to succeed with him. We should receive frequent reports and advise about details as necessary.

It may be that just the above form of summary is not necessary (we have altered our method several times), but its sequence is logical: There is the individual (1) physically and (2) mentally (including personality and character traits) and this (3) is what he has done that brings him to our notice; (4) here are the main backgrounds of his life as we can know them by inquiry and (5) such-and-such appear to be the definite elements of causation. Putting together all the above, the (6) outlook and recommendations are to be stated.

If anything is to be omitted it is the elements of the background that are not presumably causative. In skillfully prescribing treatment for delinquency the delinquent's make-up of body, mind, and character, and the causes of his delinquent trends are never to be left out of consideration.

*Greatest needs of juvenile courts.* The very greatest needs of juvenile courts are those things which make for practical success in the job at hand—alteration of conduct tendencies. If not striving for the best accomplishment, for what is the court existing? The first step toward measuring success and failure in the juvenile court can be made only by taking scientific account of the human material treated and the causes of delinquency as specifically met with. The next step is the relating of this scientific knowledge to outcomes. If the expense deters from undertaking scientific study, consider what \$20 to \$30 spent in diagnosis, in carefully calculating what ought to be done, amounts to in the light of the heavy cost of a failure, namely, a delinquent career; or the hundreds of dollars that institutional treatment will mean; or what months of poorly directed effort in probation will entail.

If it is alleged that lack of time prevents, let us state that usually a satisfactory study can be made in a few hours of well-organized work (with the aid, of course, of the ordinary official reports and with special appointments made).<sup>1</sup> With a staff equipped to obtain the social and other background facts and to make the physical and psychological investigations at the same time, a well-rounded study can be made in a comparatively short period. And what are three, four, five, or even more hours spent on this important task of attempting to find the right direction in which to work, in comparison with months and perhaps years of possibly poorly guided endeavor, whether the child is on probation or in an institution? Or consider the possible value of such diagnostic effort as against no endeavor at all to strike at any real source of trouble, because such source was not known to

<sup>1</sup> It may be of interest to state that our experience is proving the practicability of studying the majority of delinquents in an office in a building apart from the court, without provision for observational or other detention. The advantages are mainly the creating of a good attitude on the part of the delinquent and his family and the avoidance of the moral dangers of detention. If, as is occasionally necessary, cases have to be seen over and over they can return in the spirit that one continues consultations in the office of a physician.

exist. If lack of supply of scientific students of delinquency deters, then more good workers must be trained in this field—as they have to be trained for any other technical undertaking.

First and last, it can be said about this whole matter of the scientific study of delinquents that as it stands now the juvenile court for the most part is in a very uncritical stage. The effectiveness of its measures, to say nothing of its possibilities, are very little gauged. The juvenile court, so far, is a fine-spirited adventure, perhaps carried out in a high-minded and sympathetic way, but with no ledger worthy of the name for balancing expenditures of effort over against success and failure. The scientific spirit introduced into the juvenile court will ennoble the whole procedure; it will make the work more intelligent, more calculable; it will aid sympathy to be more productive of good results.

## INDEX OF SUBJECTS AND AUTHORS

- Abbott, Edith, 789  
 Abbott, Grace, 748 ff.  
 Abilities, special, 362 ff.  
 Accidents, industrial, 607  
 Addams, Jane, 53  
 Adler, Herman M., 353 ff.  
 Administration, of criminal law, 867 ff.;  
   of pensions, 747; of public welfare,  
   787 ff.; of relief, 662 ff., 670, 671 ff.,  
   678 ff.  
 Admission, 671 ff.  
 Adolescence, 198, 201  
 Aim of moral action, 20 ff., 55  
 Alcoholic deterioration, 831  
 Alcoholic psychosis, 427  
 Alexander, 19  
 Aliens, 256  
 Allen, Edward E., 467 ff.  
 Almshouses, 671 ff.  
 Altruism, 20 ff., 41 ff., 48 ff.; unregu-  
   lated, 8, 50  
 American Association for Labor Legis-  
   lation, 627 ff.  
 American Bar Association, 285, 288,  
   289  
 American Engineering Council, 594 ff.  
 American Institute of Criminal Law  
   and Criminology, 837, 838, 872, 933,  
   981  
*American Journal of Sociology*, 577,  
   694  
 American Judicature Society, 936  
 Amputations, 498  
 Anarchism, 98  
 Anderson, V. V., 826 ff., 829, 832  
 Anthropological theory of crime, 805 ff.  
 Anxiety, 583  
 Applied Economics, Bureau of, 564 ff.  
 Aquinas, Thomas, 8  
 Aristotle, 25, 67, 71, 77, 85, 96, 111,  
   166  
 Army tests, 356  
 Associated Charities, 714  
 Association for Improving the Condi-  
   tion of the Poor, 730  
 Asymmetry, 806  
 Atavism, 805 ff., 808 ff.  
 Attlee, C. R., 641 ff.  
 Auburn prison, 950 ff., 970; system,  
   945 ff.  
 Auerbach, Murray A., 671 ff.  
 Baby welfare stations, 737  
 Bahnsen, J., 213  
 Bain, 21, 211, 212  
 Baldwin, Roger N., 981, 992  
 Ballantine, Henry W., 872 ff.  
 Bar, the, 930 ff.  
 Barnardo, Dr. Thomas P., 755 ff.  
 Barnes, Harry Elmer, 942 ff.  
 Bates, Sanford, 880  
 Bateson, 347 ff.  
 Beccaria, 862  
 Beggars, 152  
 Belden, Evelina, 997  
 Bell, Alexander Graham, 466, 476  
 Benevolence, 48 ff., 62 ff.  
 Bentham, 36, 53, 853, 862  
 Bergson, 301  
 Bertillon, 173, 838 ff.  
 Best, Harry, 449, 801  
 Binet, Alfred, 353 ff., 359 ff., 370 ff.,  
   373  
 Birth control, 326  
 Birth rate, 323  
 Birth registration, 753  
 Blackstone, 256, 258, 259, 276, 849  
 Blindness, 440 ff.  
 Boarding out, 756  
 Boas scale, 731  
 Bodio, 816  
 Booth, Charles, 512 ff., 545 ff., 574, 575  
 Bosanquet, Bernard, 67 ff., 79 ff.  
 Bowers, Paul E., 826, 827  
 Bowley, Arthur L., 173 ff.  
 Brace, Charles Loring, 756  
 Bradley, 24, 27, 82  
 Braille, 484  
 Breckinridge, Sophonisba P., 787 ff.  
 Breckinridge and Abbott, 991  
 Brockway, Z. R., 948, 949, 962 ff.  
 Bronner, Augusta F., 358 ff., 1009  
 Brooklyn, 658 ff.  
 Brutality, 955  
 Bryant, Louise S., 736  
 Bryce, 20



- Budgets, workmen's, 547, 550 ff.; history of, 559 ff.; minimum of subsistence, 564 ff.  
 Bullock, Charles J., 554, 556, 558  
 Bureau of Applied Economics, 564 ff., 571 ff.  
 Burleigh, Edith N., 981 ff.  
 Buying, 769, 770  
  
 Cannon, Walter B., 318  
 Carlisle, Chester Lee, 433 ff.  
 Carver, Thomas Nixon, 1, 217 ff., 629 ff.  
 Case study, 1003 ff.; summaries, 1015  
 Casual laborers, 515 ff.  
 Cattell, 322, 324  
 Census of feeble-minded, 409  
 Census Bureau, 391 ff., 425 ff., 440 ff., 452 ff.  
 Centralized administration, 678 ff., 787 ff.  
 Chamber of Commerce, 780  
 Chapin, Robert Coit, 559 ff., 565, 567, 568, 732  
 Character, bad, 54; basis of, 205 ff.; building, 6, 186 ff.; definition, 209; and habit, 209 ff.  
 Charity, 63, 534; indiscriminate, 10, 50, 65, 158; state boards of, 787 ff.  
 Charity organization movement, 662, 714  
 Charity Organization Society, London, 83, 644, 689, 692  
 Child labor, 266  
 Child-placing, 755 ff.; definition, 757  
 Child protection, 755 ff.  
 Child welfare, standards, 764 ff.  
 Children, crippled, 491 ff.  
 Children's Aid Society, 755, 756  
 Children's Bureau, 744 ff., 748, 764 ff., 788, 991, 994, 995, 996, 997, 1002, 1003  
 Church, 93  
 Chute, Charles L., 996, 1001  
 Citizenship, education for, 171  
 Class distinctions, 256  
 Cleveland, 184, 494 ff., 780 ff., 841 ff.  
 Climate and crime, 815  
 Clinics, 735  
 Codification of laws, 283 ff.  
 Coeducation, 322  
 Collectivistic formula, 134  
 Colony system, 438 ff.  
 Commercial agencies, 4  
 Common good, 20 ff.  
 Commons, John R., 636  
 Community Fund campaign, 780 ff.  
 Community trust, 777  
  
 Conformity, 242, 274  
 Conklin, Edwin G., 305 ff., 309 ff.  
 Consanguinity, 381, 465  
 Consciousness of kind, 243  
 Constraint, effects of, 244 ff.  
 Constructive democracy, 217 ff.  
 Constructive legislation, 281 ff.  
 Constructive philanthropy, 236 ff.  
 Consumption, nonproductive, 228  
 Control, boards of, 792 ff.; social, 109, 121, 240 ff., 248 ff.  
 Convict labor, 956 ff.  
 Cooley, Charles Horton, 1  
 Cooperation, 5, 111, 117, 253, 844; of agencies, 713, 769 ff.; voluntary, 40  
 Co-operative movement, 589  
 Corruption, 128  
 Cosmopolitanism, 231  
 Cost of production, 221  
 Councils of social agencies, 769 ff.  
 County jail, 882  
 Courts, 281 ff.  
 Crafts, L. W., 374  
 Crime, cause of poverty, 576; causes, 815 ff.; definition, 803, 804; economic condition, 820; illiteracy, 820; immigration, 822 ff.; occupation, 818 ff.; religion, 818; rural, 816, 817  
 Criminal, 100, 155; defectives, 414; E. London, 513; habitual, 854; heredity, 383; procedure, 867 ff.; responsibility, 872 ff.; statistics, 834 ff.  
 Criminal law, administration, 867 ff., 886 ff.; American, 927 ff.; definition, 804; English, 921 ff.  
 Criminality, 803 ff.; heredity, 814; and mental condition, 826 ff.; statistics, 834  
 Criminals, identification, 838 ff.  
 Cripples, 486 ff.; Birmingham, census of, 486; children, 491 ff.; Cleveland, 494 ff.; New York, 497  
 Criteria, of child welfare, 764 ff.; of control, 248 ff.; of social survey, 184-185  
 Criterion, moral, 132 ff.; of principle, 272; of science, 184-185; of social worth, 334  
 Criticism of contemporary method, 151 ff.  
 Culture, 47, 62 ff.  
 Curative treatment, 647 ff.  
  
 Dactyloscopy, 839 ff.  
 Davenport, 306, 320, 429  
 Davies, 559, 560  
 Davis, Katherine B., 832

- Deaf-mutism, 452 ff.  
 Death-rate, 339  
 Death registration, 753  
 Defective delinquents, 414, 826 ff., 1003 ff.  
 Defectiveness, 353 ff.  
 Deformity, 486 ff.  
 Degeneracy, 376 ff.  
 Delinquency, *see* Crime, Criminality  
 de Maistre, Joseph, 848  
 Democracy, 39 ff., 125 ff., 217 ff., 230  
 Dependency, 665; causes, 574 ff. *See* Poverty  
 Desertion, 739 ff.  
 Desertion bureau, 742, 743  
 Despotism, 99  
 Determent, 850 ff.  
 Development of personality, 121  
 Devine, Edward T., 548 ff.  
 de Vries, 301  
 Dewey, John, 27, 41 ff., 53 ff., 125 ff., 132 ff., 203 ff.  
 Dietary, 963. *See* Malnutrition, Budgets, workmen's  
 Difficulties in criminal procedure, 894 ff., 911 ff., 917 ff.  
 Disabled civilians, 497 ff., 501 ff.  
 Disablement, 853  
 Discipline, 246  
 Discretion, administrative, 908  
 Dissipation, repression of, 260 ff.  
 Doll, E. A., 370 ff.  
 Domestic Relations, Court of, 743  
 Domestic subjection, 257  
 Drafting bureaus, 285 ff.  
 Drink, 576, 577  
 Drug deterioration, 831  
 Drunkards, 215, 524  
 Dugdale, Richard L., 376 ff.  
 Duplication, 771  
 Durkheim, 72  
 Duty, 29 ff., 86 ff., 119, 153; versus expediency, 88 ff.  
 Dwight, Louis, 945, 946  
 Dwight, Theodore W., 948  
  
 Economic condition and crime, 820  
 Economic cost of disability, 497 ff.  
 Economic factors, 592 ff.  
 Economic laws, 218  
 Economic research, 592 ff.  
 Economics, 2, 8 ff.  
 Eden, Sir Frederick Morton, 559, 560  
 Education, for citizenship, 171; criticism, 170 ff.; of deaf and blind, 467 ff.; of feeble-minded, 393 ff.; moral, 6, 23, 186 ff.  
 Egoism, 20 ff., 39, 41 ff.  
 Elberfeld system, 659, 690, 691, 694 ff.  
 Elderton, Ethel M., 343  
 Ellwood, Charles A., 1  
 Elmira Reformatory, 947 ff.  
 Employment exchanges, 624, 628  
 End, moral, 20 ff.  
 Enforcement of law, 867 ff.; standards of, 262  
 Engel, Ernst, 558  
 Engel's Law, 557  
 English convict, 808 ff.  
 English criminal law, 921 ff.  
 Enriques, F., 184-185  
 Environment, 342; and crime, 810 ff., 815 ff.; definition, 717; effect, 384 ff.  
 Epilepsy, 386, 435 ff., 438, 805 ff., 831  
 Equality, 70 ff., 203 ff., 217 ff., 220, 255 ff.  
 Espionage, 953, 954  
 Estabrook, Arthur H., 376 ff.  
 Ethics, and economics, 8 ff.; and politics, 17 ff.; practical, 14, 15, 90; scope, 2 ff., 11 ff.; of the State, 92 ff., 103 ff., 111 ff., 125 ff.; theory of moral purpose, 20 ff.  
 Eubank, Earle Edward, 739 ff.  
*Eugenic Review*, 140, 344 ff.  
 Eugenics, 311 ff.; definition, 349; limitations, 332 ff.; practical, 328 ff.  
 Eugenics Record Office, 377, 431  
 Eutechnics, 351  
 Eutopias, 351  
 Evidence, 906 ff.  
 Evil, 26; of penal system, 950 ff.  
 Evolution, 124, 139, 142 ff., 309 ff.; of juvenile court, 991 ff.; of Poor Law, 641 ff.  
 Executive, 762  
 Expediency, 88 ff.  
 Factory legislation, 266  
 Fagan, Bernard J., 1001  
 Failure, 666  
 Family, 93, 821, 939; ethics of, 103 ff.; social work with, 707 ff., 715 ff.  
*Family, The*, 719 ff.  
 Family Welfare Society, 714  
 Faries, John C., 497 ff.  
 Fawcett, 586  
 Fay, Edward Allen, 460 ff.  
 Fecundity, 323; of Jukes, 381  
 Federal aid, 748 ff.  
 Federal Board for Vocational Education, 510  
 Federated American Engineering Societies, 594 ff.

- Federations, financial, 769 ff.; Cleveland, 780  
 Feeble-minded, census of, 391 ff.; criminal, 831; definition, 370 ff.; education, 393 ff.  
 Feeble-mindedness, heredity of, 390  
 Felony, definition, 804  
 Fernald, Grace M., 374  
 Fernald, Guy, 355  
 Fernald, Mabel R., 827  
 Fernald, Walter E., 393 ff., 408 ff.  
 Ferri, 860  
 Fetter, F. A., 703  
 Financial federations, 769 ff.; in Cleveland, 780 ff.; subsidies, 699 ff.  
 Finger-print system, 839 ff.  
 Fish, Frederick P., 508 ff.  
 Fleisher, Alexander, 699 ff.  
 Flexner, Bernard, 981, 991, 992  
 Flood, Everett, 435 ff.  
 Folks, Homer, 703, 993  
 Forgotten Man, 151 ff.  
 Förster, F. W., 262  
 Fosdick, Raymond B., 838 ff.  
 Frankfurter, Felix, 841 ff.  
 Freedom of thought, 259 ff.  
 Fresh-air classes, 735, 736  
 Fresh-air funds, 738  
 Freund, Ernst, 255 ff., 270 ff., 281 ff.  
 Fry, Elizabeth Gurney, 943
- Gallaudet, Edward M., 475  
 Gallaudet, Thomas Hopkins, 467, 470, 471, 472  
 Galton, 149, 300, 314, 316, 322, 326, 349  
 Garofalo, 806  
 Genius, 24, 40  
 George, Henry, 574  
 George Junior Republic, 951, 967  
 Giddings, Franklin H., 1, 240 ff.  
 Giving, 772 ff.  
 Glueck, Bernard, 826, 827, 950, 1003  
 Goddard, Henry H., 390  
 Good, moral, 20 ff., 30 ff., 35 ff., 53 ff.; as self-realization, 53 ff.  
 Goring, Charles, 808 ff.  
 Government, distrust of, 126. *See* Social control, Legislation  
 Governmental agencies, 5, 92 ff., 251 ff., 255 ff.; limitations, 290 ff., 681 ff.; reform in, 130  
 Grants, 699 ff.  
 Gray, B. Kirkman, 251 ff.  
 Great men, 24, 40  
 Green, T. H., 30 ff., 853  
 Guerrey, 815, 834
- Habit, 209 ff.  
 Hadley, 127  
 Hamburger, Amy M., 494 ff.  
 Happiness, 35 ff.  
 Harlotry, 382  
 Harper, Grace S., 509  
 Harrison, Shelby M., 180  
 Hart, Hastings H., 756, 763, 879 ff.  
 Heacox, Frank L., 826, 827  
 Health, value, 205 ff.; public, 263 ff.  
 Healy, William, 355, 995, 996, 1003 ff., 1009  
 Hedonism, 33 ff.  
 Hegel, 29, 849  
 Henderson, Charles Richmond, 694 ff., 962 ff.  
 Henry, Sir Edward, 839  
 Heredity, 299 ff.; and criminality, 814; and deaf-mutism, 455 ff., 460 ff.; and degeneracy, 376 ff.; and feeble-mindedness, 390; and insanity, 428 ff.  
 Herschel, Sir William, 839  
 Higgs, Henry, 561  
 History, of budgetary studies, 559 ff.; of care of feeble-minded, 393 ff.; of criminal statistics, 834 ff.; of education of deaf and blind, 467 ff.; of Federation in Cleveland, 780 ff.; of Juvenile Court, 991 ff.; of legislation, 255 ff.; of penology, 942 ff.; of Poor Law, 641 ff.; of procedure, 921 ff.  
 Hobbes, 42, 70, 99, 110, 858  
 Hobhouse, Leonard T., 11 ff., 135 ff., 332 ff.  
 Hocking, William Ernest, 186 ff.  
 Hoover, Herbert, 594 ff.  
 Housing, 546, 570, 582, 734  
 Howard, John, 943  
 Howe, Samuel Gridley, 395 ff., 475, 479, 480, 483  
 Human inheritance, 305 ff.  
 Human talent, 629 ff.  
 Hurry, Jamieson B., 581 ff., 584  
 Huxley, 149  
 Hysteria, 420 ff.
- Idealism, 79 ff., 146, 236  
 Ideals, 724; social, 61, 349 ff.  
 Identification, 838 ff.  
 Illegitimate, 766  
 Illiteracy and crime, 820  
 Immigration, 316  
 Immigration and crime, 822 ff.  
 Income, 592 ff.  
 Individual, versus society, 22, 105 ff.; versus state, 111 ff.

- Individual effort, 590
- Individualistic school, 133
- Individuality, 715
- Individualization, 722 ff., 913, 914
- Infancy, aid, 748 ff.
- Innocent, 879 ff.
- Insanity, 417 ff., 425 ff.; causes, 433 ff.; census, 425 ff.; and crime, 872 ff.; heredity, 428 ff.
- Instinctive tendencies, 49
- Instincts, 189 ff.
- Institutions, for criminals, 942 ff.; for crippled, 491 ff., 501 ff.; for deaf and blind, 467 ff.; for dependents, 671 ff.; ethical, 92 ff.; for feeble-minded, 391 ff.; for insane, 425 ff.
- Intelligence levels, 1005; quotient, 359 ff., 374, 1010
- Interest, definition, 30
- Interests, 108; organization of, 30 ff.
- Interim relief, 741
- International problem, 132, 166
- Investigation, 173 ff., 709 ff.; of crime, 834 ff.
- Italians, criminal, 824, 825
- Itard, 393
- Jails, 879 ff.
- James, William, 33, 44, 49, 197, 209 ff.
- Jenks, Jeremiah W., 290 ff.
- Jeter, Helen Rankin, 995
- Jewish National Desertion Bureau, 743
- Jones, Henry, 27
- Judge, 868, 927 ff.
- Judge Baker Foundation, 1003
- Judgments, moral, 12 ff.
- Jukes, 376 ff.
- Jury, 867 ff.
- Justice, 59 ff., 67 ff., 81, 217 ff.; administration, 886 ff.; criminal, 841 ff., 846 ff., 886 ff.; distributive, 219 ff.; in family relations, 939; preventive, 938
- Juvenile Court, 767, 991 ff., 1017
- Juvenile delinquents, 1003 ff.; Psychopathic Institute, 1003
- Kant, 42, 54, 61, 197, 853
- Kellogg, Paul U., 177, 178, 548
- Kelso, Robert W., 678 ff.
- Killits case, 983
- Kingsley, Sherman C., 780 ff.
- Kleene, Gustav, 574 ff.
- Kohler, Joseph, 848
- Kohs, Samuel C., 390
- Kraepelin, 428, 429
- Labor, convict, 956 ff.; versus capital, 94
- Laissez-faire, 586, 587
- Lathrop, Julia, 749, 750
- Laurie, S. S., 98
- Law, aim, 914 ff.; criminal, 804, 867 ff., 886 ff.; function, 890 ff.; political and moral, 17 ff.; and public opinion, 897, 898; substantive, 933
- Law of proportionality, 218
- Laws, economic, 218
- Leaders, 328. *See* Genius
- League of Nations, 166, 169
- Lee, Joseph, 236 ff.
- Lee, Porter R., 662 ff., 707 ff.
- Legal enactment versus morality, 18
- Legal history, 255 ff.
- Legislation, child-welfare, 768; labor, 255 ff., 609 ff., 619 ff., 627 ff.; limitations, 290 ff.; moral, fallacy, 153; social, 255 ff., 586 ff.
- Legislative program, 217-218; limitations, 290 ff., 867 ff., 886 ff.
- Legislative Reference Service, 285 ff.
- Lenroot, Katharine F., 991 ff.
- Leonard, Christine M., 829, 832
- Le Play, 558, 561
- Less eligibility, 645 ff.
- Lewinski-Corwin, 728 ff.
- Liberty, 114 ff., 126, 133, 258 ff.
- Lindsay, 577
- Locke, 70, 77, 102
- Lombroso, Cesare, 805 ff., 808 ff.
- Lotze, 10, 205
- Lowell, Abbott Lawrence, 291
- Lucas, Charles, 947
- McCarthy, Charles, 287
- McConnell, Bishop Francis J., 571 ff.
- MacCunn, John, 205 ff.
- McDougall, William, 199
- Mach, E., 184-185
- Mack, Julian W., 991, 994
- Mackenzie, William Leslie, 734
- McLean, F. H., 179, 664
- McMurtrie, Douglas C., 487, 501 ff.
- McNaghten's case, 874 ff.
- Maconochie, Captain Alexander, 947
- Malnutrition, 582, 728 ff.
- Malthus, 574
- Management, definition, 595; financial federations, 769 ff., 780 ff.; public welfare, 787 ff.; responsibility, 609 ff.; and workers, 611
- Mann, Horace, 475, 476
- Manny, Frank A., 731
- Marshall, Alfred, 550 ff.



- Marx, Karl, 574  
 Massachusetts State Board of Charity, 756  
 Massachusetts State Board of Education, 508 ff.  
 Maternity aid, 748 ff.  
 Mayo-Smith, Richmond, 815 ff.  
 Medical inspection in schools, 450  
 Mendel, Gregor, 301  
 Mendelian principles, 302 ff., 305 ff.  
 Mental deficiency, 391 ff., 1003 ff.  
 Mental Deficiency Act, 372  
 Mental disease and delinquency, 826 ff.  
 Mental disorder, 417 ff., 420 ff.  
 Mental equipment, 353 ff., 358 ff.  
 Mental hygiene, 767  
 Mental tests, 353 ff., 1003 ff.  
 Metaphysics, 12, 13, 14  
 Method, social, 151 ff.; social, criticism of, 151 ff., 164 ff.; psychometric, 353 ff.  
 Middle class, 522 ff.  
 Midwives, training of, 450  
 Mill, John S., 36, 38, 209, 213  
 Misdemeanant, 881 ff.  
 Misdemeanor, definition, 804  
 Mitchell, W., 402  
 Money-raising, 772 ff.  
 Montesquieu, 858, 859  
 Montessori, Mme., 191  
 Moore, George Edward, 86 ff.  
 Moral education, 23, 245 ff.  
 Moral end, as common good, 20 ff.  
 Moral good, 30 ff.  
 Moral judgments, 12, 27, 132 ff.  
 Morality, 34, 58  
 Moron, training, 412 ff.  
 Mosaic Law, 886  
 Mothers' pensions, 744 ff.  
 Motive, 46  
 Mudge, G. P., 347 ff.  
 Muirhead, John H., 11 ff., 20 ff., 209  
 Münsterberg, Emil, 585, 694 ff.  
 Murders, 871  
 Mutual aid, 112  
 Mutual Welfare League, 952, 965 ff.  
 Myerson, Abraham, 420 ff.  
  
 National Bureau of Economic Research, 592 ff.  
 National Committee for the Prevention of Blindness, 446 ff.  
 Nationality and crime, 823 ff.  
 Necessaries, 550 ff.  
 Nettleship, 84, 429  
 Neurasthenia, 420 ff.  
 New York Academy of Medicine, 728 ff.  
 New York Board of Estimate, 566 ff.  
 New York Factory Commission, 565, 568  
 Norton, William J., 769 ff.  
  
 Obligations, 125 ff., 151 ff.  
 Occupation and crime, 818 ff.  
 Occupations, of blind, 442 ff.; of deaf-mutes, 457  
 Ogburn, W. F., 564, 568, 569  
*Ophthalmia neonatorum*, 446, 449  
 Oppenheimer, Heinrich, 846 ff., 874, 876  
 Oppenheimer, Reuben, 991, 992  
 Opportunity, equal, 203 ff.  
 Ordahl, Louise and George, 827  
 Organization, of charity, 662, 714; of interests, 30 ff.; of state boards, 787 ff.  
 Orr, Florence I., 302 ff., 428 ff.  
 Osborne, Thomas Mott, 950 ff., 965 ff.  
 Ought-judgments, 15  
 Outdoor relief, 658 ff., 662 ff.  
  
 Pain, 43  
 Paley, 860, 862  
 Parole, 986 ff.; definition, 981  
 Paulsen, Fr., 33  
 Pauperism, causes, 574; as hereditary taint, 344 ff., 382  
 Peabody, Francis Greenwood, 8 ff.  
 Pearson, Karl, 184-185, 328 ff., 338, 734  
 Penn, William, 942  
 Pennsylvania system, 944 ff.  
 Perry, Ralph Barton, 30 ff.  
 Personality, 62, 96, 723, 915, 1006; definition, 715; development, 121, 715 ff.; make-up, 366; right of, 255  
 Philanthropy, 4, 236 ff.; versus state, 681 ff.  
 Physical culture, 963  
 Physical factors in crime, 815 ff.  
 Pittsburgh District, 571 ff.  
 Pittsburgh Survey, 177 ff., 548 ff.  
 Plato, 77, 83, 93, 95, 96, 128, 209  
 Play, 196 ff.  
 Pleasure, 33 ff.  
 Poincaré, H., 184-185  
 Police administration, 925  
 Policy, social, 2 ff.  
 Political abuse, 676  
 Political activity, 132 ff.  
 Political economy, 2, 157  
 Political institutions, 133  
 Political rights, 125 ff.  
 Political theories, 849 ff.

- Politics, 127, 926; and ethics, 17 ff.
- Poor-law, English, 264-265, 344 ff., 641 ff., 644 ff., 651 ff.
- Pound, Roscoe, 105 ff., 886 ff., 894 ff., 911 ff., 917 ff.
- Poverty, 512 ff.; causes, 512 ff., 523 ff., 536 ff., 574 ff.; East London, 512 ff.; prevention, 592 ff.; primary, 536 ff.; secondary, 534 ff.; and its vicious circles, 581 ff.; York, 531 ff.
- Poverty line, 539, 543
- Prevention, of blindness, 446; of degeneracy, 309 ff.; of desertion, 739 ff.; of poverty, 592 ff., 655 ff.
- Preventive philanthropy, 236 ff.
- Prison, criticism of, 950 ff.
- Prisons, history of, 942 ff.
- Private activity, 217 ff., 681 ff.
- Probation, 981 ff., 991 ff.; definition, 981
- Procedure, criminal, 867 ff., 886 ff.; English, 923 ff.
- Production, 594 ff.
- Professional criminals, 854, 855
- Progress, social, 124, 127, 135 ff., 142 ff., 167, 342, 897; definition, 139, 147
- Prohibition fallacy, 153, 273
- Prosecution, 929, 933 ff.; petty, 937
- Psychoneuroses, 420 ff.
- Psychosis and crime, 831
- Public agencies, 681 ff.
- Public opinion, 218, 871, 872, 897, 898
- Public welfare, state boards of, 787 ff.
- Punishment, 100, 156, 245 ff.; theories, 846 ff.; true function, 856 ff.
- Purpose, social, 1 ff.
- Quakers, 942 ff.
- Questionnaire, 181 ff.
- Quetelet, 834
- Race, improvement of, 310 ff.; and nativity of blind, 442
- Rashdall, 866
- Raymond, Stockton, 722 ff.
- Realism, 146
- Records of crime, 834 ff.
- Red Cross Institute for Crippled, 497, 501, 502, 503, 504, 508
- Reeder, R. R., 725
- Reeves, Edith, 486 ff., 491 ff.
- Reform, social, criticism, 633, 153 ff., 164 ff.; limitations, 292
- Reformation, criticism, 155
- Reformatories, 942 ff., 962 ff.
- Reformer, vice of, 39 ff.
- Reforms in party machinery, 129
- Registration of feeble-minded, 410
- Rehabilitation, 508 ff.
- Relief, 719 ff.; interim, 741, 742; principles, 644 ff.; public, 658 ff., 662 ff.
- Religion, and crime, 818; productive, 224
- Rent, 547, 570
- Repression, 260 ff.
- Research, need of, 598
- Responsibility, 224, 595, 609 ff.; criminal, 872 ff.; departmental, 799 ff.; of labor, 612 ff.
- Restraint, social, 114 ff.; impatience of, 900, 901
- Retribution, 914, 915
- Rewards, 245 ff.
- Richmond, Mary E., 715 ff.
- Right, 67, 87, 119; of personality, 255 ff.
- Rights, 86 ff., 93, 161, 191, 255 ff.; of aliens, 256; natural, 119, 153, 901; political, 125 ff.
- Riley, Thomas J., 658 ff., 741
- Robinson, James Harvey, 164 ff.
- Robinson, Louis N., 834 ff.
- Rosanoff, A. J., 302 ff., 428 ff.
- Ross, Edward A., 240, 248 ff.
- Rossy, C. C., 826, 827
- Rousseau, Jean Jacques, 22, 70, 71, 77, 206
- Rowntree, B. Seebohm, 531 ff., 542
- Rural crime, 816, 817; jurisdictions, 928
- Ruskin, John, 82
- Russell, Bertrand, 188, 190
- Safety, public, 263 ff.
- Saleeby, C. W., 584
- Saving, 223, 570
- Sayre, Francis B., 269
- Schedule, 181 ff.
- School lunches, 736, 737
- School medical inspection, 450
- Science, 159, 184, 185
- Scientific study of delinquents, 1003 ff.
- Seager, Henry R., 592 ff., 619 ff.
- Seasons and crime, 816
- Segregation, 317 ff.
- Seguin, E., 393 ff.
- Selection, natural, 140, 346
- Self-realization, 53 ff.
- Self-support, 488
- Seth, James, 59 ff., 92 ff.
- Settlement, university, 234
- Sex-interest, 198
- Shaftesbury, Lord, 79
- Sheppard-Towner Act, 750 ff.
- Sherwell, 542

- Sidgwick, 19  
 Silence, 944 ff., 952, 953  
 Simon, Theodore, 353 ff., 370 ff., 373  
 Sin, definition, 226, 803  
 Sing Sing, 950 ff.  
 Slavery, 255 ff.  
 Slingerland, W. H., 755 ff., 763  
 Small, Albion W., 1  
 Smith, Adam, 8, 9  
 Smith-Hughes Act, 510  
 Social administration, 6  
 Social case work, 707 ff., 715 ff.; definition, 716  
 Social classes, 151 ff.  
 Social contract, 28  
 Social control, 240 ff., 248 ff.; of heredity, 299 ff., 309 ff.  
 Social councils, 769 ff.  
 Social damage of Jukes, 386 ff.  
 Social ethics, 1 ff.  
 Social ideals, 349 ff.  
 Social insurance, 265  
 Social investigation, 3 ff., 173 ff., 841 ff.  
 Social legislation, 255 ff.; principle, 270 ff.  
 Social measures, 2 ff.  
 Social method, 2 ff., 151 ff.  
 Social policy, 1 ff.  
 Social progress, 135 ff.  
 Social purpose, 1 ff.  
 Social question, 7 ff.  
 Social science, 1 ff.  
 Social self-control, 240 ff.  
 Social Service Exchange, 712  
 Social surveys, 3 ff., 176 ff., 841 ff.  
 Social work, 229 ff., 707 ff.  
 Socialism, 297  
 Society, theory of, 111; versus individual, 22, 105 ff.; versus the State, 92 ff.  
 Sociology, 1 ff.  
 Socrates, 81, 102  
 Solomon, Harry C., 417 ff.  
 Sovereignty, 98, 101  
 Spencer, Herbert, 20, 41, 53, 103 ff., 137  
 Spinoza, 205, 209  
 Sprattling, William E., 438 ff.  
 Springfield Survey, 179, 183  
 Standard, of comfort, 222; of life, definition, 553; of living, 537 ff., 550 ff., 564 ff.; of living, definition, 554  
 Standardization, principle of, 273 ff.  
 Standards, 68, 70; of child welfare, 764 ff.; of institutions, 494; moral, 218; of parole, 986 ff.; of probation, 981 ff.  
 Stanford Revision, 355, 359  
 State, an end-in-itself, 96; ethics of, 92 ff., 103 ff.; versus individual, 111 ff.; versus Jones, 874, 878; versus philanthropy, 681 ff.  
 State-interference, 98  
 State intervention, 251 ff.  
 Statistical investigation, 173 ff.  
 Statistical service, 616  
 Statistics, of blind, 440 ff.; of criminals, 815 ff., 834 ff.; of deaf-mutes, 452 ff.; of deformity, 486 ff.; of dependency, 574 ff.; of feeble-minded, 391 ff.; of insane, 425 ff.  
 Stearns, A. Warren, 826, 827  
 Stephen, Sir James, 804  
 Stephen, Leslie, 43, 44  
 Sterility, 812  
 Sterilization, 317 ff.  
 Stigmata, 810  
 "Stool-pigeons," 954, 969  
 Streightoff, 554 ff.  
 Stuckenberg, J. H. W., 1  
 Subsidies, 699 ff.  
 Subsistence minimum, 564 ff.  
 Substantive law, 933  
 Suicide, 28  
 Sumner, William Graham, 57, 151 ff.  
 Supervision, 253; of crippled, 494; of feeble-minded, 408 ff.; state, 763, 765; state, versus control, 792 ff.  
 Survey, social, 3 ff., 173 ff., 175 ff., 184 ff., 376 ff., 512 ff., 531 ff., 548 ff., 559 ff., 562 ff., 841 ff., 886 ff.  
 Surveys of cripples, 486 ff., 494 ff., 497 ff.  
 Sympathy, 36, 160  
 Syphilis, 833  
 Taft, William H., 842, 867 ff.  
 Tagore, Sir Rabindranath, 196  
 Taylor, Carl C., 176 ff.  
 Taylor, F. M., 99  
 Teacher, qualifications, 193  
 Technique, social, 2 ff., 173 ff., 176 ff.  
 Temperance, 62, 63  
 Terman, 355, 359  
 Tests, mental, 353 ff.  
 Thom, D. A., 437  
 Thomson, J. Arthur, 142 ff., 290 ff., 349 ff.  
 Thriftlessness, repression of, 260 ff.  
 Torts, definition, 803  
 Towne, Arthur W., 993  
 Toynbee, Arnold, 587  
 Trachoma, 449  
 Tracy, Sheriff, 884  
 Trade unions, 589, 615

- Trades, instruction, 964
- Training of habit, 209 ff.
- Transcendental theories, 848, 849
- Tuberculosis, 335, 606, 736
- Tufts, James H., 41 ff., 53 ff., 125 ff., 132 ff., 203 ff.
- Unemployment, 525 ff., 576, 583, 600 ff., 619 ff., 627 ff., 667, 668
- Unemployment insurance, 625, 629
- Uniform state laws, 289
- United States Bureau of the Census, 391 ff., 425 ff., 440 ff., 452 ff.
- United States Bureau of Labor Statistics, 569
- United States Children's Bureau, 744 ff., 991 ff.
- United States Immigration Commission, 822 ff.
- Veblen, Thorstein, 196
- Vengeance, 903
- Vermont plan, 883 ff.
- Vice, 950, 951; definition, 226, 803
- Vicious circles, 581 ff.
- Virtue, 61 ff.; definition, 91, 226
- Vision, defective, 607
- Vocational education, 510
- Vocational Education Act, 749
- Volta Bureau, 460, 476
- Voluntary organization, 589 ff., 683 ff.
- Von Mayr, 834
- Von Scheel, 816
- Von Wiese, Leopold, 698
- Wage payment, 611
- Wages, 571 ff.
- War, 318 ff.
- Ward, Lester F., 1
- Warner, Amos G., 574 ff., 703
- Waste, 594 ff., 769 ff.
- Webb, Sidney, 330, 681 ff.
- Webb, Sidney and Beatrice, 587, 644 ff., 651 ff.
- Weismann, August, 300
- Wells, H. G., 165, 167
- Whetham, W. C. D., 140
- White, Alfred T., 659 ff.
- Wiglesworth, 340
- Will, 99 ff., 190 ff., 209 ff.; effort of, 215
- Will to power, 200 ff.
- Wilson, Lucius E., 723
- Wines, Frederick Howard, 803 ff., 835
- Woods, Robert A., 229 ff.
- Worker, injured, 508 ff.
- Workhouse system, 646 ff.
- Workmanship, 599
- Workmen's compensation, 506
- Wright, Henry C., 793
- Wright, Lucy, 494 ff.
- Yerkes, Robert M., 355















HM66 Ford, James.  
F753 Social problems and social  
policy.

c .1

Date Due

C.1

HM66

F753 Ford, James.

AUTHOR

Social problems and social  
policy.

TITLE

DATE DUE

BORROWER'S NAME

*Reference Copy*



